

**GURNOMAL CHULARAM MIRPURI, PETITIONER AND APPELLANT,
VS. VICENTE ALDANESE, INSULAR COLLECTOR OF CUSTOMS,
RESPONDENT AND APPELLEE.***G. R. No. 16356. September 16, 1920*

Ponente: JOHNSON, J.

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It appears from the admission of the appellant that he arrived at the port of Manila on the 22d day of April, 1918, on the steamship Katori Maru, and asked permission to enter the Philippine Islands; that a board of special inquiry was appointed for the purpose of inquiring into his right to enter the territory of the United States, and that said board denied him that right upon the ground that he belonged to an excluded class of aliens, mentioned in section 3 of the Act of Congress of February 5, 1917. An appeal was taken to the Collector of Customs, who affirmed the order of the board of special inquiry.

On the 31st day of May, 1918, the appellant presented a petition in the Court of First Instance, for the writ of habeas corpus, alleging that the Collector of Customs was illegally depriving him of his liberty. The Attorney-General answered that petition, alleging that the petitioner was being detained for the purpose of enforcing the provisions of the Act of Congress of February 5, 1917. Upon the issue thus presented the Honorable James A. Ostrand, on the 9th day of March, 1920, rendered a judgment in which he stated that "there is no evidence before the court showing abuse of discretion on the part of the administrative officials of the department of customs," and for that reason denied the petition for the writ of habeas corpus and ordered the petitioner remanded to the custody of the Insular Collector of Customs for deportation. From that judgment the petitioner appealed to this court.

The only assignment of error made by the appellant is, that "the lower court erred in not taking into account Act No. 1580 (No. 2788) of the Philippine Legislature permitting certain British India subjects who were residents in the Philippine Islands on December 31, 1918, to remain in the Philippines."

The appellant, in support of his assignment of error, alleges that the Philippine Legislature, on the 8th day of February, 1919, adopted Act No. 1580 (No. 2788) entitled "An Act authorizing, under certain conditions, certain foreigners, subjects of Great Britain, to remain in the Islands, any provision of law to the contrary notwithstanding," that said Act was sent to the President of the United States for his express or implicit approval; that the President of the United States detained the same for a period of nearly nine months; and that during that period it became effective as a law because of the implicit approval of the President of the United States.

Said Act No. 1580 (No. 2788) provided that the Immigration Act approved by the Congress of the United States on February 5, 1917, is declared inapplicable to foreigners, subjects of Great Britain, who were in Philippine territory on December 31, 1918, and to whom the exclusion ordered by said Act applies for the sole reason that their land of birth is comprised within the geographical description contained in section 3 of said Act.

The contention of the appellant that said Act (No. 2788) became effective by virtue of the implicit approval of the

President of the United States is not tenable, for the reason that said Act expressly provides that it shall not become effective, even after the express or implicit approval by the President of the United States until "the Governor-General shall so announce by means of a proclamation, and that said Act shall take effect on the date of such proclamation." On the 3rd day of December, 1919, by concurrent resolution No. 10, the Fifth Philippine Legislature resolved "that the President of the United States be, and he hereby is, requested, through the Governor General, to return House Bill No. 1580 (Act No. 2788), entitled 'An Act authorizing, under certain conditions, certain foreigners, subjects of Great Britain, to remain in the Islands, any provision of law to the contrary notwithstanding,' for the purpose of amendment".

From the foregoing, it is clear that the contention of the appellant that said Act (No. 2788) became effective by implicit approval of the President of the United States is not tenable, for the reason that even after express or implicit approval by the President of the United States, it did not then become effective until after a proclamation by the Governor-General of the Philippine Islands.

There being no proof in the record of any kind or character whatsoever showing that the department of customs abused its power, authority or discretion in denying the appellant the right to enter the Philippine Islands, the judgment of the lower court must be, and the same hereby is, affirmed; and it is hereby ordered and decreed that the appellant be remanded to the custody of the Collector of Customs in order that the order of deportation heretofore issued by that department of the Government may be carried into effect. It is so ordered, with costs.

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

[1] The same conclusions were reached in the following cases: Wadhmal Naraindas vs. Stanley (R. G. No. 16352, decided September 23, 1920, not published); Assudomal Hotchand vs. Collector of Customs (R. G. No. 16354, decided September 23, 1920, not published); Kotumal Choolaram Mirpuri vs. Aldanese (R. G. No. 16355, decided September 23, 1920, not published); Naraindas Pherumal vs. Aldanese (R. G. No. 16357, decided September 16, 1920, not published); Tahilran Peritamdas vs. Collector of Customs (R. G. No. 16358, decided September 23, 1920, not published); and Choohermal Khemchand Daswani vs. Aldanese (R. G. No. 16359, decided September 16, 1920, not published).

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