

RATTAN SINGH, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.*G. R. No. 16415. September 16, 1920*

Ponente: JOHNSON, J.

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From the record it appears that the appellant arrived at the port of Manila on the steamship Victoria on the 23d day of February, 1920, and asked permission to enter the Philippine Islands. The board of special inquiry investigated the question of his right to enter the territory of the United States. The board, after hearing the declaration of the appellant, reached the conclusion that he did not belong to any of the exempted classes of aliens who had a right to enter the territory of the United States in accordance with the provisions of the Act of Congress of February 5, 1917, and entered an order refusing him the right requested.

On the 18th day of March, 1920, the appellant presented a petition in the Court of first Instance of the city of Manila for the writ of habeas corpus, which the Attorney-General answered. A certified copy of the record made in the department of customs was brought to the court. When the cause was brought for hearing in the Court of First Instance the attorney for the petitioner asked permission to introduce additional testimony for the purpose of proving that the petitioner had been a merchant in Borneo before coming to Manila. The Court of First Instance admitted said evidence, subject to a ruling thereon in its decision of the case. In his decision, the Honorable George R. Harvey, judge, held "that said evidence is not admissible before this court to prove that petitioner is a merchant, as no such claim was made before the customs authorities, and they had not passed upon said claim of the petitioner. And even if such evidence were admissible, it is not sufficient to establish as a fact that the petitioner was a merchant in Borneo or is a merchant now."

The lower court, in further consideration of the record made by the department of customs, reached the conclusion that "there is no evidence before the court showing abuse of authority or discretion on the part of the customs officials and no substantial errors of law have been brought to the attention of the court" and, upon that conclusion, denied and dismissed the petition for habeas corpus and ordered the appellant remanded to the custody of the Insular Collector of Customs for appropriate action. From that judgment the petitioner appealed to this court.

The appellant, in his first assignment of error, alleges that the lower court erred in not passing upon the question, whether the petitioner was a merchant in Borneo prior to his arrival in the Philippine Islands. An examination of the record made in the department of customs shows that the only evidence relating to the occupation of the appellant is as follows:

"Q. What is your occupation in India?-A. I am a farmer in India.

"Q. How long have you been here?-A. Only yesterday.

"Q. You cannot claim any occupation here as you arrived only yesterday. What will be your occupation here?-A. I want to learn some business.

"Q. With whom do you want to work?-A. With Chan Han Sing.

"Q. Did Chan Han Sing ask you to come to Manila or not?-A. No.

"Q. Why did you come to the Philippines?-A. Because I want to learn some arts.

"Q. In what way will Chan Hanging help you?-A. If I start business he will help me.

"Q. You said you have two or three hundred dollars, where are they now?-A. I spent in Borneo, and I lost. I lost my business in North Borneo and I will try my luck, I am going to start business here and also I can get help from Mr. Chan Han Sing.

"Q. How much money do you say you had in North Borneo?-A. \$200."

It will be seen from the above testimony that there is not a word in the record showing that the appellant was either a merchant in India or in North Borneo. The only statement which might, by any possibility, indicate that he was a merchant in North Borneo is the statement: "I lost my business in North Borneo." That statement does not show, nor tend to show, that he was a merchant.

In the Court of First Instance the appellant attempted to show, by his own declaration, that he was a merchant in North Borneo. That evidence the lower court rejected, and properly so. In cases like the present, the Courts of First Instance are without authority or jurisdiction to hear proof, or to consider any proof whatever, outside of the record made in the department of customs until it has been shown that that department of the Government has abused its power, authority, or discretion. (Chua Yeng vs. Collector of Customs, 28 Phil., 591; Que Quay vs. Collector of Customs, 33 Phil, 128; Flores Tan vs. Collector of Customs, 33 Phil., 205, 207; Ty Buan vs. Collector of Customs, 34 Phil., 937, 941; Co Puy vs. Collector of Customs, 36 Phil., 409.)

Therefore, the lower court was fully justified in not considering the evidence offered by the appellant until the fact was established that the department of customs had abused its power, authority or discretion.

The above argument also disposes of the third assignment of error of the appellant.

The second assignment of error is, that the lower court committed an error in not deciding that the petitioner was a merchant at the time of his arrival at the port of Manila. Upon that question there was no proof whatever, sustaining the contention of the appellant, adduced in the department of customs. Neither is there any evidence in the record which we can consider that sustains that contention of the appellant.

For the foregoing reasons, the judgment of the lower court is hereby affirmed, with costs. So ordered.

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

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