

MACARIO AROCHA, ETC., PETITIONER-APPELLEE, VS. MARTINIANO VIVO, ETC., ET AL., RESPONDENTS-APPELLANTS. MARTINIANO VIVO, ETC., PETITIONER, VS. HON. FRANCISCO ARCA, ET AL, RESPONDE...

G.R. No. 24844 and 24853. October 26, 1967

Ponente: REYES, J. B. L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-24844/>

REYES, J. B. L., J.:

These are two cases instituted by the Solicitor General for the Commissioner, of Immigration: G. R. No. L-24844, is an appeal from the decision of the Court of First Instance of

Manila in Civil Case No. 61824 for a writ of Habeas Corpus, declaring as null and void the warrant issued by appellant Immigration Commissioner, for the exclusion from this country of Pedro Gatchalian, and ordering the immediate release of the latter from the custody of immigration authorities; while G. R. No. L-24853 is a petition for certiorari and prohibition, in which petitioner Commissioner of Immigration assails as in excess of jurisdiction and with grave abuse of discretion, the issuance by the same court of first instance of the aforementioned order .to release Pedro Gatchalian from detention and of the permanent injunction against his arrest, exclusion or deportation.

There is no dispute as to the following facts:

On June 25, 1961, Pedro Gatchalian, a minor, arrived at the Manila International Airport aboard a Cathay-Pacific Airways plane, together with four other persons supposedly his father (Jose Gatchalian), an aunt and two brothers, and sought entry as a Filipino citizen. Not satisfied with his papers, the immigration officer referred the case of Pedro Gatchalian to the Special Board of Inquiry. This body, after due hearing, rendered decision on July 6, 19 61 (in I. C. Nos. 61-2108-C to 61-2114-C) admitting Pedro Gatchalian and seven others, as Filipino citizens. Submitted to the individual members of the Board of Commissioners, the decision was marked 'noted' by Commissioners Talabis and De la Rosa on July 14 and 26, 1961, respectively, while Commissioner Galang voted to "exclude" the persons subject of the decision, on Aug-ust 21, 1961.

On August 16, 1961, Pedro Gatchalian was issued Identification Certificate No. 16132 by the immigration authorities, attesting to his admission as citizen of the Philippines as per decision of the Board of Special Inquiry dated July 6, 1961.

On January 24, 1962, the Secretary of Justice, as department head, issued Memorandum Order No. 9, directing the Immigration Commissioners to review all cases where entry was allowed on the ground that the entrant was a citizen of the Philippines (Records, p. 37).

In July, 1962, the Board of Commissioners, allegedly after review of the entire proceedings had before the Board of Special Inquiry, reversed the decision of the latter body and ordered the exclusion of Pedro Gatchalian, for being improperly documented (Exh. 5). Subject of the decision was accordingly notified of the Commissioners' ruling through his counsel (Exh. 6). But, although the warrant for his exclusion was issued in July, 1962, Pedro

Gatchalian was taken into custody by the immigration authorities only on June 6, 1965 (Exh 7).

On July 21, 1965, Macario Arocha, on behalf of Pedro Gatchalian, petitioned the Court of First Instance of Manila for a writ of habeas corpus (Civ. Case No. 61824), claiming that the detention of Gatchalian, a Filipino, by the Immigration Commissioner, is violative of said petitioner's constitutional rights. Respondents immigration officials countered that the exclusion order was issued Pursuant to the decision of the Board of Commissioners dated July 6, 1962, finding Pedro Gatchalian to have failed in proving the allegation that he is a Filipino citizen.

During the trial, the issues in controversy centered on the actual date of rendition of the Commissioners' decision, reversing that of the Special Board of Inquiry; and the validity of that Commissioners' decision, admittedly issued *motu proprio* and without affording petitioner opportunity to be heard. It was therein petitioner's contention that the decision was originally dated July 20, 1962, which date was erased and superimposed with another figure to read July 6, 1962. On the other hand, respondents alleged that the erasures were made to correct clerical mistakes.

In its decision of July 31, 1965, the court sustained petitioner's theory that the decision of reversal of the Board of Commissioners was antedated and issued beyond the prescribed one-year period. Holding that the decision of the Special Board of Inquiry, admitting the Philippine citizenship of Pedro Gatchalian had already become final, the Court ordered his immediate release from detention and enjoined respondents, permanently, from arresting, deporting and otherwise depriving him of his liberty. On the strength of a writ of habeas corpus, issued by the Court, Pedro Gatchalian was released from custody of the immigration authorities at 9 o'clock in, the evening of August 3, 1965.

Notified of the abovementioned decision of the lower Court, respondents filed notice to appeal therefrom, on August 3, 1965, and this appeal was docketed in this Court as G. R. No. L-24844. In addition, the Commissioner of Immigration also came to this Court on August 9, 1965, for writs of certiorari and prohibition (G. R. No. L-24853, by charging the Court below with grave abuse of discretion in ordering the immediate release of Gatchalian notwithstanding the perfection of an appeal from the decision of said court, contrary to the provisions of Section 20, Rule 41 of the Revised Rules of Court.

The cause of petitioner and appellant Commissioner of Immigration in this Court hinges on the issue of the correct date of promulgation of the decision of the Board of Commissioners reversing that of the Special Board of Inquiry. For if, indeed, the reversal was made on July 20, 1962, as asserted by appellee and respondent Gatchalian, instead of July 6, 1962, as maintained by herein appellant and petitioner, then the admission on July 6, 1961 by the Special Board of Inquiry of the fact of Gatchalian's Philippine citizenship would have become final and, therefore, his detention by the immigration authorities would be unlawful.

The parties are agreed that pursuant to Section 27(b) of Commonwealth Act 613, as amended by Republic Act 503, the decision of the Board of Special Inquiry shall become final unless reversed on appeal by the Board of Commissioners, or in the absence of an appeal, unless reversed by the Board of Commissioners after a re-view by it, *motu proprio*, of the entire proceedings within one year from the promulgation of the said decision.

In the instant cases, the decision of the Board of Commissioners (Exh. 5), the notification to appellee's counsel that such decision was rendered (Exh. 6), and the warrant of exclusion (Exh. 7), bear the date July 6, 1962, or within one year from the reviewed decision of the Board of Special Inquiry. It is contended, however, that in all of these documents, the date of promulgation of the decision appeared to have been originally written as July 20, 1962, but the number "20" was erased and superimposed by "6".

Appellant Commissioner of Immigration insists that these erasures and substitutions were corrections made only

to rectify clerical mistakes. Besides, according to appellant, there is proof that the decision was actually rendered on July 6, 1962, pointing to a certification of the Secretary to the Board of Commissioners that the said body voted to exclude the applicants in I.C. Cases Nos. 61-2113-0, 2114-C and 2110-C, Gloria Gatchalian et al., on July 6, 1962 (Exh. 5-A); and to the minutes of the meeting of that Board indicating that the matter of admission of Gloria Gatchalian et al. was taken up on July 6, 1962 (Annex F, to L-24853).

As previously stated, the Court of First Instance agreed with the appellee that the erasures indicated that the original date was July "20", but that the figures had been erased and retyped as "6"; and concluded that the Commissioners' decision and the warrant of exclusion had been antedated, in order to bring the decision within the one-year term fixed by Section 27(b) of Commonwealth Act 613, as amended, wherein the proceedings before the Board of Special Inquiry may be reviewed and revoked, either upon ap-peal or motu proprio by the Board of Immigration Commissioners. The Court below held, therefore, that the decision of the Board of Special Inquiry, declaring Pedro Gatchalian to be a Filipino citi-zen had become final and definitive.

We do not believe that the mere fact of a retyping of dates an the face of the documents, without further evidence of record, suffices to convict the three members of the Board of Immigration Commissioners of maliciously antedating their decision, considering the presumption of regularity in official actuations, and the serious implications of the charge, which amounts to no less than falsification of official documents. Such an offense cannot be lightly inferred; but must be clearly proved beyond reasonable doubt.

In the first place, the accusation is negated by the official minutes of the Board's proceedings (Exhibit 5-A in case G. R. No. L-24844 and Annex F, in case G. R. No. L-24853), which clearly show that the resolution to exclude was adopted on July 6, 1962. No alteration in dates appear; in these Exhibits. And it goes without saying that the operative date of the Commissioners' action is that when the resolution of exclusive was voted and adopted by them as a Board, regardless of the date when the decision in extenso was prepared, written and signed. In fact, the alterations observed by the Court below are susceptible of the explana-tion that the date July 20 was originally placed by the stenographer or typist because it was then that the reasoned and extended decision was typewritten in final form, but that it was corrected to July 6, the date it was voted, because the decision in extenso must relate back to the day the resolution to exclude was actually adopted. Necessarily, the extended opinion had to be posterior to the day when the Commissioners voted and resolved to reverse he findings of the Board of Special. Inquiry, The Secretary's certificate (Annex F, L-24853) shows that the Board of Immigration Commissioners acted upon not less than eight immigration cases (including that of the Gatchalians) on July 6, 1962; and it was of course impracticable to prepare and sign fully reasoned decisions in all these cases on the same day.

Furthermore, it would have been senseless for the Board of Immigration Commissioners to have taken a vote and decided the Gatchalian cases on July 20 (and there is no evidence that they ever did so), because the Commissioners were familiar with the law and knew that such a decision would be useless, as the period of review had already lapsed since July 6.

It is argued for the appellee that the minutes in Exh. 5-A refer only to the cases of Gloria, Francisco and Benjamin Gatchalian. But the designation of the case is "Gloria Gatchalian et al." No reason is shown why the case of these three should be considered and voted upon separately, considering that the claims to citizenship and entry of all were based on the same circumstances, applicants being the descendants of one Santiago Gatchalian, a Filipino, and that all their applications for entry were in fact jointly resolved by the Board of Inquiry in one single decision (Annex I, petition, G. R. No. L-24844).

We, therefore, conclude that the Court below erred in finding and declaring that the decision of the Board of

Special Inquiry in the case of petitioner-appellee had become final and unreviewable, and that its review and revocation by the Commissioners of Immigration was null and void.

Appellee also argues that the decision of the Inquiry Board had become non-reviewable since 1961 because of its confirmation by the majority of the proceeding Board of Commissioners. It is pointed out that two members of the latter board (Talabis and De la Rosa) in reference to said decision had marked "Noted" over their own signatures, while only the third Commissioner made of record his adverse opinion. Such argument is untenable.

First, even disregarding the ambiguity of the term "Noted" the former Immigration Commissioners appeared to have acted individually in this particular instance and not as a Board. It is shown by the different dates affixed to their signatures that they did not actually meet to discuss and vote on the case. This was officially made of record by the Secretary of Justice in his Memorandum Order No. 9, of January 24, 1962, wherein he stated

"that for the past several years, the Board of Commissioners of Immigration has not met collectively to discuss and deliberate in the cases coming before it." (Exh. 3, Rec. p. 37, C. F. Inst. Case No. 61824, G. R. No. L-24844)" (Emphasis supplied)

Individual action by members of a board plainly renders nugatory the purpose of its constitution as a Board. The Legislature organized the Board of Commissioners precisely in order that they should deliberate collectively and in order that their views and ideas should be exchanged and examined before reaching a conclusion (See *Ryan vs. Humphries*, LRA 1915F 1047). This process as of the essence of a board's action, save where otherwise provided by law, and the salutary effects of the rule would be lost were the members to act individually, without benefit of discussion.

"The powers and duties of boards and commissions may not be exercised by the individual members separately. Their acts are official only when done by the members convened in session, upon a concurrence of at least a majority and with at least a quorum present." (42 Am. Jur. 389, sec.74).

"Where the action needed is not of the individuals composing a board but of the official body, the members must be together and act in their official capacity, and the action should appear on the records of the board." (Penn. R. Co. vs. Montgomery Co. Pass. R. Co., 167 P 2d. 62, 27 LRA 766).

"Where a duty is entrusted to a board, composed of different individuals, that board can act officially only as such, in convened session, with the members, or a quorum thereof, present." (State vs. Kelly, 21 ALR 156).

Secondly, in consonance with the foregoing principles, the aforementioned Memorandum Order of the Secretary of Justice, issued in the exercise of his powers of control and supervision as Department Head, (Adm. Code, sec. 79[c]), expressly declares that –

"the public interest so requiring, it is hereby ordered that all decisions purporting to have been rendered by the Board of Commissioners on appeal from or on review *motu proprio* of decisions of the Boards of Special Inquiry, are set aside."

and this nullification included the alleged 1961 decision which the appellee now invokes and upon which he relies.

Finally, it is well to note that appellee did not traverse the allegation of appellant Commissioners in their return to the writ of Habeas Corpus that appellee Pedro Gatchalian gained entry on the strength of a forged cablegram, purportedly signed by the former Secretary of Foreign Affairs Felixberto Serrano, and apparently authorizing appellee's documentation as a Filipino (par. 3[a] of Return, C.F.I. Rec., pp. 15-16). Such failure to deny imports admission of its truth by the appellee, and establishes that his entry was irregular. Neither has he appealed the decision of the Commissioners of Immigration to the Department Head.

Proceeding on another tack, appellee Gatchalian stresses that he was not heard by the Board of Commissioners, and invokes *Commissioner of Immigration vs. Fernandez*, L-22 696, May 29, 1964, as ruling that an applicant is entitled to be heard in-review by the Board of Commissioners. Whatever was said in that sense in the *Fernandez* case is pure obiter dictum, since the issue therein was the power and right of the Court of Appeals, to grant bail to a detainee whose case was pending therein on appeal. At any rate, the right to hearing declared in the *Fernandez* case was recognized in connection with the attempt of a Board of Commissioners to review a ruling of the preceding Board that had previously affirmed the findings of the Board of Special Inquiry, where the validity of the first ruling was not questioned; while in the present case, as has been shown, there is no valid confirmatory decision of the preceding Board of Immigration Commissioners. In reality, the right to representation by counsel before the Immigration Commissioners is only granted by the Immigration Law (sec. 27(c) of C. A. 613) in cases of appeal by the alien from an adverse decision of the Board of Inquiry. The law is as follows:

"(c) An alien excluded by a board of special inquiry or a dissenting member thereof may appeal to the Board of Commissioners, whose decision in the case shall be final. The decision on appeal shall be put in writing and promulgated not less than seven days from the time the case is submitted for decision. In appeal cases, the alien shall have the right to be represented by an attorney or counsel who shall have access to the record of the board of special inquiry in the particular case on appeal." (Come Act 613, as amended by Rep. Act 503). (Emphasis supplied).

Plainly, the quoted provision does not by its terms apply to a review *motu proprio* by the Board of Immigrations Commissioners of decision admitting an alien, as in the case at bar; for in such cases, the reviewing Board only passes on the sufficiency of evidence already produced before the Board of Special Inquiry. The alien, having been already heard by the latter, is not entitled to further hearing unless the law so provides. This is particularly true in administrative proceedings (*Cornejo vs. Gabriel*, 41 Phil. 193, quoted and followed in *Bishop vs. Galang*, L-18365, May 31, 19 63).

The foregoing facts and considerations, clearly prove, in our opinion, that the decision appealed from was erroneous on the facts and the law; and considering the powers vested by statute in the Immigration authorities, the order of release issued by the Court below was unwarranted and improper, and should be set aside.

It is likewise unavoidable to conclude, that the enforcement of the order to release appellee Pedro Gatchalian, notwithstanding the appeal interposed by the Immigration Commissioner from the decision under review, was in plain violation of section 15, Revised Rule 102, and in patent excess of jurisdiction.

"SEC. 15. When prisoner discharged if no appeal. -- When the court of judge has examined into the cause of caption and restraint of the prisoner, and is satisfied that he is unlawfully imprisoned or restrained he shall forthwith order his discharge from confinement, but such discharge shall not be effective until a copy of the order has been served on the officer or person detaining the prisoner. If the officer or person detaining the prisoner does not desire to appeal, the prisoner shall be forthwith released." (Emphasis supplied.)

WHEREFORE, the decision and order of the Court of First Instance of Manila, here complained of, are reversed, nullified and set aside. Costs against appellees, Macario Arocha, and Pedro Gatchalian.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.