

GETTY MONITZ DE MILLER, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.

G.R. No. 31150. September 10, 1929

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by Getty Monitz de Miller from the decision of the Court of First Instance of Manila, denying, for the reasons therein stated, the petition for habeas corpus presented by the appellant against the Collector of Customs for the port of Manila.

In support of her appeal, the appellant assigns the following alleged errors as committed by the trial court in its judgment;

The trial court erred:

- In deciding the case against the petitioner.
- In considering the petitioner as an alien.

The following facts were proved at the trial by a preponderance of evidence:

On October 6, 1928, the appellant Getty Monitz de Miller was deported and excluded forever from the Philippine Islands by order of His Excellency, the Governor-General, inasmuch as after an investigation duly conducted in accordance with the provisions of section 69 of the Administrative Code, it appeared that she was a subject of a foreign power, and confined in Bilibid Prison, Manila, for two crimes which made her an undesirable alien by reason of her two convictions.

On January 7, 1929, the appellant returned to this country and was investigated by a board of special inquiry sitting at the port of Manila. During the investigation, she testified that she had no occupation; that she first came to Manila eight years ago; that during that time she had been running a boarding house in Cavite; that she left Manila on October 6, 1928; that the first time she was convicted by the courts of these Islands was when she had an altercation with Lieutenant Little in 1927, when she kicked said lieutenant while she was drunk; that she served her sentence in Bilibid for about seven or eight months; that she was deported to Hongkong by order of the Governor-General; that she came back because her husband wrote her that he would return to Manila in a year; that she had a son in Manila and she could not stand her loneliness in China; that she was longing to be in Manila where she had many friends, while in China she had none; that her son, Bernard Monitz Miller, 12 years old, begotten with her first husband, was with the Jewish Society; that she contracted her second marriage in Manila on July 2, 1927; that her second husband was in Washington; that she returned after having been deported because she wanted to behave herself and to be a better citizen; that she had no passport.

After said investigation, the board of special inquiry submitted the following recommendation:

"Miss Getty Miller, a Jewish, was deported from Manila on October 6, 1928, on the steamship President

Cleveland, by order of the Governor-General, on the ground that she is an undesirable alien by reason of her two convictions for violations of the laws of the Philippine Islands. She was convicted by the court for offenses and sentenced to imprisonment. Before the expiration of her sentence she was ordered deported never to come back.

"Miss Miller returned today on board the steamship President McKinley from Hongkong. She was investigated by the Board of special inquiry. According to her, when she was deported last October, she landed at Hongkong. That she has a child left with the Jewish Society in Manila and desires to reside here permanently, she decides to return. She has no passport. As she is an undesirable alien, having been convicted and deported for offenses and as she is not provided with the necessary passport, the board recommends that she be barred from admission. It is further recommended that the vessel that brought Miss Miller be obliged to return her to the port whence she came."

The foregoing recommendation was approved by the appellee, the Insular Collector of Customs.

From the foregoing facts, it appears that the herein petitioner-appellant had been deported by order of His Excellency, the Governor-General, on October 6, 1928, after an investigation conducted in accordance with the provisions of section 69 of the Administrative Code, for having been found to be an undesirable alien because of her bad conduct and her two convictions for the violation of the laws of the Philippine Islands.

She has no right to return to the Philippine Islands until the Governor-General vacates the order of deportation issued against her, and the action of the Collector of Customs for the port of Manila, as an executive officer charged with the enforcement of the Immigration Law, was therefore taken for the sole purpose of executing said order of deportation, and, consequently, her detention, in order to be sent back to the port from which she came, is legal.

For the foregoing considerations, and finding no error in the judgment appealed from, the same is hereby affirmed in all its parts, with costs to the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, Johns, and Romualdez, JJ., concur.

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