

NG HAY YAM, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.

G.R. No. 37056. March 04, 1933

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from a decision of the Court of First Instance of Manila denying the petitioner's application for a writ of habeas corpus.

The only question that needs to be determined on this appeal is whether the respondent abused his authority and discretion in refusing to recognize the Section VI Merchant's Certificate issued by the American Consul at Amoy, China, on August 4, 1931, to the petitioner, in pursuance of the Act of Congress of May 6, 1882, as amended by the Act of July 5, 1884 (22 Stat. L., 58; 23 Stat. L., 115).

The petitioner's contention that the immigration authorities in Manila must accept such a certificate and cannot go behind any statements of fact therein, if accepted, would virtually transfer to United States consuls in China the final decision as to the right of entry of a Chinese subject into the United States and the Philippine Islands, in the face of the statutes vesting that authority in the Secretary of Labor and (in the Philippines) the Insular Collector of Customs. The argument of counsel is controverted by the petitioner's own declaration in the certificate:

"I realize that if I am one of a class inadmissible to the United States under any of the provisions of the immigration laws of the United States, or if my classification as a non-immigrant alien is not approved upon arrival in the P. I., I may be deported or detained by the immigration authorities, and I am prepared to assume the risks of such deportation or detention."

The customs authorities refused to recognize the petitioner's Section VI Merchant's Certificate because it contains false statements. In his certificate before the consul, the petitioner stated that he had been a merchant in China "from 1925 to date" (August 4, 1931), whereas the records in the office of the respondent show that on May 6, 1927, he entered the Philippines under the name of Uh He Yiam and remained here till August 24, 1929. Furthermore, the bond he gave for his temporary liberty at that time allowed him to remain for a period of only six months. He violated the condition of his bond and remained here for more than two years, managing the business of a cousin.

In view of these facts and the undoubted right of the respondent to go behind the prima facie Section VI Merchant's Certificate, we affirm the judgment with costs against the appellant.

Avanceña, C. J., Street, Ostrand, and Abad Santos, JJ., concur.

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