

## LEE SING, ON BEHALF OF HIS SON LEE SHU, PETITIONER AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.

*G.R. No. 39403. December 16, 1933*

Ponente: BUTTE, J.

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### BUTTE, J.:

This is an appeal by the Insular Collector of Customs from a judgment of the Court of First Instance of Manila granting a writ of habeas corpus to the appellee, Lee Sing, on behalf of his son Lee Shu.

Lee Shu, represented by his alleged father, Lee Sing, applied to the Collector of Customs for admission into the Philippine Islands. Lee Shu based his right to enter the Philippine Islands on the claim that he is the legitimate son of Lee Sing who is an American citizen. A board of special inquiry in the Bureau of Customs, before whom both Lee Sing and Lee Shu testified, rendered a decision which is as follows:

"This is the case of Lee Shu, male, 19 years of age, who seeks admission into this country as minor son of one Lee Sing, an American citizen landed on appeal as such per C. B. R. No. 4001-2. From the investigation of this case. the record shows that the herein applicant and his alleged father committed some discrepancies with regards to the number of rooms their house in China has. The herein applicant testified that it has (house) two rooms and a hall, while the alleged father stated that it has two rooms; a hall and two small additional rooms. It should be made of note that the alleged father arrived in this country barely a month ahead of the applicant and if they really belong to the same family as claimed, such discrepancy would have easily been overcome. The second ground for rejecting is with regards to the surroundings of their house in China, in that the applicant testified that what is at the back of their house is a hill and that a farm is also at the right side, while the alleged father stated that ground is behind and that a house is at the right side. The last ground for an adverse decision is the fact that according to the observation of the board based on its experience on conducting investigations on similar cases, the herein applicant is a pure blooded Chinese rather than a person born of an American citizen as father as claimed. His conduct to the effect that he is really a full blooded Chinese will bear the board out of its observation and conclusion.

"In view of the foregoing, he is hereby rejected and refused landing in this country. He and his broker are informed of this decision and are given two days within which to appeal to the Insular Collector of Customs, should they feel dissatisfied with the decision."

The applicant appealed from the decision of the board and the Collector of Customs, the appellant herein, on February 21, 1933, affirmed the decision of the board and ordered that Lee Shu be returned to the port of his embarkation in accordance with law. Thereupon Lee Sing on behalf of his alleged son, Lee Shu, filed his petition in the Court of First Instance of Manila praying for a writ of habeas corpus.

The contradictions in the testimony of Lee Sing and Lee Shu found by the board and the collector, the court below, examining the same testimony, found not to exist. We have reviewed the testimony and find that there are contradictions as found by the board but they relate to minor details and, standing alone, would probably not be

sufficient to warrant the exclusion of the applicant. The third ground for exclusion is based on the personal observation of the board which had Lee Sing and Lee Shu before it. The board also had before it the record of Lee Sing, C. B. R. No. 4001-2. From its personal observation of these two individuals, the board concluded that the applicant being a pure blooded Chinese is not the son of the American citizen who claims to be his father. The decision of the board on this point is inaptly worded but we think it is clearly inferable that the board observed racial dissimilarity which made it impossible for Lee Sing to be the father of a pure blooded Chinese.

The lower court rested its decision upon a literal interpretation of the language of the board which it held to be absurd on its face. We think that justice to the board requires that an effort be made to get at the true meaning of the board. There is no doubt that the board came to the conclusion that Lee Shu is not the son of Lee Sing because they observed a racial difference between the two which made that relationship impossible.

There being evidence to sustain the finding of the board and no arbitrary or illegal act on their part being shown, the judgment of the court below is reversed with directions to dismiss the petition. Costs against the appellee.

Avanceña, C. J., Abad Santos, Vickers, and Diaz, JJ., concur.

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