

EPIFANIA DE LEON, ON BEHALF OF YU TIAN, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.

G.R. No. 39705. October 16, 1933

Ponente: BUTTE, J.

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BUTTE, J.:

This is an appeal from a judgment of the Court of First Instance of Manila, denying a petition for writ of habeas corpus.

The appellant makes the following assignments of error:

"The lower court erred:

"1. In holding that no abuse of discretion and authority have been committed by the customs officials in ordering the deportation of Yu Tian; and

"2. In sustaining the decision of the respondent Insular Collector of Customs, and in remanding the said Yu Tian to the custody of the said official."

On October 18, 1932, a landing certificate was issued by the Insular Collector of Customs in favor of Yu Tian, the appellant. On April 1, 1933, an administrative warrant of arrest was issued by the respondent Collector of Customs against said Yu Tian, charging him with having gained admission to the Philippine Islands through false and fraudulent representations, in violation of the Immigration Act of February 5, 1917. On April 3, he was brought before a duly constituted board of special inquiry for investigation as to his right to remain in this country. The board found that the said Yu Tian had failed to prove his right to remain in this country and recommended his deportation, which recommendation was approved on review by the respondent Insular Collector of Customs. Thereupon, the appellant filed a petition for writ of habeas corpus which was denied, as stated, by the Court of First Instance of Manila.

The appellant in his brief states: "The only question for determination in this appeal is whether or not the customs authorities have abused the discretion conferred upon them by law in issuing against Yu Tian a warrant of arrest without having previously filed against him any sworn information as legally required."

The appellant presents no authorities and makes no citations to sustain his assumption that the warrant of arrest was not legally issued. It was perfectly clear that said warrant was authorized by section 19 of the Act of February 5, 1917, and the provisions of section 1 of said Act (39 Stat., 874.) However, the appellant bases his argument as to abuse of discretion on the part of the appellee principally upon the lack of any evidence tending to show that the petitioner gained admission to the Philippine Islands through false and fraudulent representations.

The record shows that at the hearing held on October 17, 1932, which resulted in Yu Tian's obtaining the landing certificate, he was able to give the place of his birth, the exact date of his birth, all the names of his brothers, how

many of his brothers were in this country and how many remained in China. He stated that three of his brothers accompanied him at that time. On the other hand, at the hearing held on April 3, 1933, he stated at one time that he was born in the Philippines and at another, that he did not know where he was born. He stated that he did not remember when he was born. He could not or would not give the name of his mother. The examination continued as follows:

"Q. When did you go to China the last time?—A. I don't know.

"Q. How many brothers and sisters have you?—A. (No answer.)

"Q. Give the names of your brothers and sisters.—A. (No answer.)

"Q. When you came to this country who were your companions? —A. (No answer.)

"Q. Has your father ever been to this country?—A. (No answer.)

"Q. Do you have brothers and sisters in this country?—A. (No answer.)

"Q. With whom are you living now?—A. (No answer.)

"Q. Have you ever seen your mother in this country?—A. (No answer.)

"Q. When did your father die?—A. (No answer.)

"Q. Where did your father die?—A. (No answer.)

"Q. How many of your brothers are married?— A. (No answer.)

"Q. How many sisters have you?— A. (No answer.)

"Q. What is the real name of your mother in China?—A. (No answer.)."

The appellant argues that the Chinese had a right to keep silent and refuse to answer said questions or any questions in the said hearing. A similar contention made by the appellee in G. R. No. 39480,[1] promulgated October 10, 1933, was rejected by this court.

We find no error in the judgment of the court below and the same is hereby affirmed with costs against the appellant.

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

[1] Ong Liengco vs. Collector of Customs, page 554, ante.

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