

GABINO ABALA, PETITIONER AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.

G. R. No. 40480. March 17, 1934

Ponente: DIAZ, J.

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DIAZ, J.:

The herein appellee returned to the Philippines from China on June 18, 1931. The customs authorities then denied him the right to enter these Islands on the ground that he was a Chinese citizen, notwithstanding his allegation that he was born in Cebu and had, in addition to his baptismal certificate, another to the effect that he had on previous occasions been permitted to land and enter the Islands. The customs authorities arrived at the above conclusion after conducting the necessary investigation wherein said appellee had been afforded full opportunity to prove his alleged right to remain in this country. A new investigation having been ordered at his request about two years after the first investigation had been conducted, the board of special inquiry of the Bureau of Customs again denied him the right to enter these Islands and the decision of the said board was affirmed by the herein appellant. The reasons which the customs authorities had taken into consideration in adversely deciding the question raised by the appellee, as above stated, were his failure to prove that he is a native of these Islands and the fact that not until after two years had elapsed did he know the names of his parents or that of any of their Filipino relatives.

The trial court, before which the case had been brought on appeal through habeas corpus proceedings instituted by the appellee, set aside the decision of the customs authorities holding that it had been rendered with abuse of their authority and discretion, thus sustaining the theory of the appellee that, inasmuch as he is provided with a baptismal certificate and a certificate of previous admissions into these Islands upon his return from China, he was entitled to remain in this country.

In the cases of *Yu Pian vs. Collector of Customs* (58 Phil., 28); *Ong Liengco vs. Collector of Customs* (58 Phil., 554); and *Chua Go vs. Collector of Customs* (p. 523, ante), this court held, and it again reiterates the doctrine therein enunciated because it is applicable to this case and decides a similar question, that the fact that a certificate of residence or permission to land or enter this country has been issued to a person, as in the case of the herein appellee, is not a bar to his subsequent deportation to the place whence he came, if it later turns out that he is an immigrant who is not entitled thereto or that he succeeded in entering this country through fraudulent means.

The argument that there is no evidence of record to prove that the appellee through fraudulent means succeeded in entering the Philippines upon his return for his various trips to China, is of no consequence nor weight. The law imposes upon the person invoking the right of admission and entry the burden of satisfactorily and convincingly proving that he is entitled to such right. The customs authorities are not bound to present evidence to contradict or disprove an immigrant's allegation to the above effect (*Que Quay vs. Collector of Customs*, 33 Phil., 128). The immigrant should base his claim on the sufficiency and efficacy of his own evidence and it is a doctrine already established in this jurisdiction that the customs authorities are not required to accept as satisfactory and true in all cases statements made before them by an immigrant, relative to his claim. (*Jao Igco vs. Morgan Shuster*, 10 Phil., 448; *Lee Jua vs. Collector of Customs*, 32 Phil., 24; *Chattamal vs. Collector of Customs*, 42 Phil., 916.)

Neither is there any merit in the argument that the appellee had on other occasions been acknowledged to be a native of the Philippines to the extent that he had been granted permission to enter this country, the corresponding certificate having been issued to him by the customs authorities, on the ground that certificates of that nature do not constitute conclusive evidence that the possessor thereof is really a native of these Islands. (*You Fook Hing vs. U. S.*, 214 Fed., 77; *Lum Bing Wey vs. U. S.*, 201 Fed., 379.)

Inasmuch as the appellee has not proven to the satisfaction of the court that he is the son of a Filipina and that he was born in Cebu, when it was incumbent upon him to establish such facts, and it appearing from the record, as the board of special inquiry of the Bureau of Customs which saw the appellee in person before it so found, that the said appellee has all the characteristics and appearances of a pure Chinaman, knowing no other language but Chinese, it is hereby held that the aforesaid board and the herein appellant did not commit any abuse of their authority and discretion nor act arbitrarily.

Wherefore, the order appealed from is hereby set aside and it is ordered that the said appellee again be placed in the custody of the appellant, with costs against the appellee. So ordered.

Street, Villa-Real, Abad Santos, and Butte, JJ., concur.

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