

LEE CHIU, IN REPRESENTATION OF LEE YIT, PETITIONER AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.

G. R. No. 40561. March 17, 1934

Ponente: DIAZ, J.

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DIAZ, J.:

Lee Yit, claiming to be one of the eight children of the petitioner-appellee, who is a Chinese merchant of long residence in this country, arrived at the port of Manila from China on August 7, 1933, and requested permission to land in order to live with his aforesaid father. The board of special inquiry of the Bureau of Customs, after due investigation wherein the complainant and said Lee Yit were afforded the necessary opportunity to prove the latter's right to enter the Philippines, denied his petition on the following three grounds, to wit: (1) That the petitioner failed to identify his alleged son Lee Yit upon the latter's arrival at the pier where the ship, which brought him to this port, docked; (2) that Lee Yit failed to identify one of his alleged brothers through his photograph; and (3) that both father and son memorized all that they stated at the investigation.

For one reason or another, the petitioner at his instance, was granted a rehearing in order to give him an opportunity to present additional evidence consisting of a medical certificate to the effect that he was suffering from defective eyesight. In spite of this new evidence, the board, this time composed of new members, again denied Lee Yit's petition, whereupon his father instituted these habeas corpus proceedings in the Court of First Instance of Manila, alleging that in denying his petition, the two boards of special inquiry as well as the herein respondent abused their authority and discretion. After due hearing, the aforesaid court granted the petitioner the remedy prayed for by him and, the respondent, not being satisfied with the decision thus rendered, appealed.

Therefore, the question to be decided in this case is whether or not the customs authorities abused their authority and discretion. This court has examined the record and found that when the petitioner was required to point out his alleged son Lee Yit, he indicated a different person. Having discovered his mistake, he attempted to exculpate himself by feigning defective eyesight, and the certificate presented to prove such fact really states that "due to his age, his eyesight is defective and he cannot clearly distinguish objects at a certain distance." The latter board of special inquiry of the Bureau of Customs did not give credit to this explanation nor to the certificate in question. and this court understands why it refused to do so. When the petitioner was requested to point out his son, and he did so, it was an indication that he had seen the latter, otherwise, the most natural thing for him to do should have been to request permission to approach his son. If he found it unnecessary to request such permission, it was undoubtedly due to the fact that his sight was not so badly defective as to prevent him from complying with the wishes of the customs official who requested him to point out his son.

This court likewise found that of the two photographs shown to Lee Yit, one of which was that of his brother Lee Bak and the other of his brother Lee Nam, for the purpose of identifying each of them, said Lee Yit indicated Lee Bak's photograph as that of Lee Nam, although, discovering his mistake, he rectified it some minutes later by

correctly telling which was which. If the board of special inquiry of the Bureau of Customs did not give credit to these explanations, it did not, on that account, commit any abuse of authority or discretion because customs authorities are not bound to accept as satisfactory and true, in all cases, the statements made before them by an immigrant (*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); and lastly, this court finds that the testimony of the father and that of the son on some details regarding their house in China; the ages of the latter's brothers who, according to him, were seven in number; and other minor details, tally so well and without the least discrepancy that it cannot but be attributed to a thorough coaching of the two, particularly if it is borne in mind that neither could the father recognize the son nor the son recognize his two alleged brothers Lee Nam and Lee Bak, through their photographs.

Wherefore, and in the absence of a showing that the customs authorities have abused their discretion and authority, as imputed to them, in denying Lee Yit's right to land at this port in order to reside with the petitioner in the Philippine Islands, it is hereby ordered that the appealed order be reversed and the said Lee Yit again be placed in the custody of the respondent, with costs against the complainant. So ordered.

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

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