

## APOLONIO DE LOS SANTOS, PETITIONER AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.

*G. R. No. 40592. March 03, 1934*

Ponente: BUTTE, J.

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### **BUTTE, J.:**

This is an appeal of the Insular Collector of Customs against a judgment of the Court of First Instance of Manila in a habeas corpus case.

It appears that the petitioner, Apolonio de los Santos, a Filipino citizen, on August 5, 1933, applied for admission to the Philippine Islands of Diy Bun Lay and Lian Chiat Santos who arrived at the port of Manila on said date and sought admission claiming to be the wife and minor son of Apolonio de los Santos. A board of special inquiry rendered a decision denying them the right of entry and this decision was confirmed by the Insular Collector of Customs. A rehearing was granted and on September 6, 1933, another board of special inquiry again denied the petition and their decision was confirmed by the collector. This petition for habeas corpus was thereupon filed in the Court of First Instance of Manila. The petitioner presented in evidence the record of the proceedings before the customs officials, also Exhibit B, a supposed marriage contract, apparently written in Chinese. Exhibit B-1, an English translation of Exhibit B and Exhibit B-2, a certificate of the Chinese Consul General, were rejected by the court, and properly so because they had not been submitted to the Insular Collector of Customs.

An examination of the proceedings had before the Insular Collector of Customs convinces us that the respondent-appellant was not guilty of abuse of discretion or arbitrary proceedings. The applicants were given two separate hearings, as stated. There were a number of contradictions and also improbabilities in the testimony of the petitioners before the respondent. Exhibit B is a suspicious document.

The learned trial judge observed the conduct of the petitioner, Apolonio de los Santos, toward Diy Bun Lay in the court room and concluded therefrom that they must be husband and wife. Doubtless, the two were together before the separate special boards of inquiry who had opportunity likewise to observe them. Boards of special inquiry are warranted in taking such personal observations into consideration but we are not aware of any authority that sustains a judicial tribunal on an application for a writ of habeas corpus, which is confined to the resolution of questions of law, to make independent observations which the respondent either had no opportunity to make or interpreted differently if he had the opportunity.

The judgment below is reversed with costs against the appellee and it is directed that Diy Bun Lay and Lian Chiat Santos be surrendered to the custody of the respondent to be dealt with in accordance with law.

Street, Abad Santos, Hull, and Imperial, JJ., concur.

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