

JAO IGCO, PETITIONER AND APPELLEE, VS. W. MORGAN SHUSTER, RESPONDENT AND APPELLANT,

G.R. No. 4104. March 20, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

This was an application made by the petitioner on or about the 18th day of September, 1900, presented to the Court of First Instance of the city of Manila, for a writ of habeas corpus, alleging that the respondent, W. Morgan Shuster, was illegally detaining the petitioner; that the petitioner was the minor son of a Chinese merchant actually residing in the Philippine Islands. The said Court of First Instance issued an order directing that the body of the petitioner be brought before it and that the respondent be required to show by what authority he was detaining the body of the petitioner. The respondent on the 19th day of September, 1906, brought the body of the petitioner before the court, and gave the following as his reasons for the detention.

"That his (petitioner's) right to land had been inquired into by the immigration officers at the port of Manila thereunto duly authorized, and the decision of such officers was adverse to the right of the petitioner to land; that in consequence of such decision the said petitioner had been ordered deported to the place whence he came; that the alleged detention is only such as is necessary to insure the execution of the said order of deportation."

Upon the issue thus formed, the petitioner presented proofs in said court tending to show—

First, that he was a minor under 20 years of age;

Second, that Jao Quim Lo was his father;

Third, that his father was a merchant residing and doing business in the Philippine Islands.

It was admitted that the petitioner was born in China, and that he had never been in nor resided in the Philippine Islands.

During the trial the respondent presented proof to show—

First, that the petitioner had made an application to the immigration officers of the Philippine Islands to be admitted, upon the theory that he was a minor son of a Chinese merchant residing in the Philippine Islands;

Second, that said immigration officers had found as a matter of fact that the pretension of the petitioner—to wit, that he was a minor son of a Chinese merchant residing in the Philippine Islands—was false, and that for this reason the petitioner was denied admission;

Third, that respondent presented an affidavit showing that the petitioner, on the 13th day of September, 1903, had made an application for entrance (more than two years previous to the present application) in which it was made to appear that he was then 22 years of age; that he was a merchant and had been doing business in the Philippine Islands for more than one year prior to the date (13th of September, 1903) of said application.

Upon the evidence presented during the trial of said cause the Court of First Instance found that the petitioner was entitled to the writ of habeas corpus and granted the same. From that decision the respondent appealed to this court, and made the following assignment of errors:

"1. The court erred in issuing a writ of habeas corpus in favor of the Chinaman Jao Igco, who was detained for the purpose of being deported to China, after having asked for permission to land in the port of Manila, P. I., and who, after investigation made by immigration officials duly authorized, was declared not to be entitled to land in the Philippine Islands, for which reason his entrance was denied and his deportation was ordered, all of which was approved by the Insular Collector of Customs.

"2. The court erred in not considering the conclusions and the formal part of the decision of the immigration officers duly authorized, on the question of the right of the Chinaman Jao Igco to be admitted in the Philippine Islands, as final and conclusive, such decision having been rendered by a court authorized to decide the said question, and it not having been alleged nor proved that said immigration officials had committed any abuse in this matter with respect to the discretionary power conferred by law, or that they had in any way made any error prejudicial to the right of the accused in the trial and judgment upon the matter.

"3. The court erred in declaring that said Jao Igco is a minor child of said Jao Quim Lo, and in ordering that said Jao Igco be released from custody and permitted to enter the Philippine Islands."

The appellee presented no brief in this court. The petitioner makes no allegation that he was not given a full hearing before the said immigration officers. He makes no allegation that he was not permitted to present all the proof which he desired to present upon the question of his right to be admitted into the Philippine Islands. He makes no claim that said immigration officers in any way abused the authority which was imposed upon them.

This court has decided that the laws relating to Chinese immigration into the Philippine Islands are enforced by the customs officials, and that the decision of such officials was final, unless it was shown that there had been an abuse of the authority imposed on them. (*Rafferty vs. Judge of the Court of First Instance*, 7 Phil. Rep., 164; *Ngo-Ti vs. Shuster*, 7 Phil. Rep., 355; *Lo Po vs. McCoy*, 8 Phil. Rep., 343.)

An alien seeking admission into the territory of the United States, which admission is denied by the customs officials, has no right to appeal to the courts until he has exhausted the remedies afforded by the executive branch of the Government, and not then unless he can show that there has been an abuse of authority. The administrative remedies must first be exhausted before resort can be had to the courts. (*U. S. vs. Sing-Tuck*, 194 U. S., 161; *U. S. vs. Ju Toy*, 198 U. S., 253; *Ekiu vs. U. S.*, 142 U. S., 651; *Chin Yow vs. U. S.*, 28 Sup. Ct. Rep., 201.)

The mere fact that the immigration officers did not accept certain sworn statements presented by the petitioner as true would not of itself justify the court in taking jurisdiction of the cause upon the ground that that was an abuse of authority. Immigration officers are not required to accept as true all statements, even though they be sworn to, presented to them. (*Chin Yow vs. U. S.*, 28 Sup. Ct. Rep., 201.)

Under the facts presented in the cause, the petitioner is not entitled to the writ of habeas corpus. The judgment of the lower court is therefore hereby reversed, and it is hereby ordered that the said applicant, Jao Igco, be remanded to the custody of the Insular Collector of Customs, so that the order heretofore made by the customs immigration officials may be carried out, without any finding as to costs.

Arellano, C. J., Torres, Mapa, Carson, Willard, and Tracey, JJ., concur.

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