

GO ENG CHEW, ON BEHALF OF GO CHIAN, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.

G. R. No. 41422. September 29, 1934

Ponente: VICKERS, J.

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VICKERS, J.:

This is an appeal from a decision of the Court of First Instance of Manila denying the petition presented by Go Eng Chew on behalf of his son Go Chian for a writ of habeas corpus.

Go Kay, Go Sin, Go Chian sought to enter the Philippine Islands as the minor sons of Go Eng Chew, a resident Chinese merchant. On September 14, 1933 a board of special inquiry denied them admission on the ground that their alleged father, who is registered as a laborer, did not have the right to bring his wife children into the Philippine Islands, because although he had applied for an indorsement as a merchant his application had not been acted upon. The three aliens appealed to the Insular Collector of Customs, who granted them a rehearing to give them an opportunity to prove that their father was a merchant. The only evidence presented at the rehearing was the testimony of two Filipinos who had bought shoes from Go Eng Chew, alleged father of the minors, in Gara Street, Manila. According to them Go Eng Chew had a shoe store at No. 313 Gara under the name of the "Stard Sho Store" another at 315 Gara under the name of the "Hollywood Shoe Store". They testified that Go Eng Chew gave orders to the employees, told the witnesses that he was one of the partners in the business.

A certified copy of the articles of copartnership of a retail shoe store at 313 Gara Street was presented at the rehearing. The partners in this business were Go Eng Chew six other Chinese. The firm name was Cua Peng & Co. the trade name was Pou Houn Shoe Store. The partnership was organized on January 1, 1929 for a period of three years, with a capital of P28,000, contributed in equal amounts by the seven partners. Cua Peng, one of the partners, was appointed general manager. These articles were ratified before a notary public on March 11, 1929 registered in the Mercantile Register on June 2, 1930.

The foregoing was all the evidence presented by the minors to show that their alleged father was in fact a merchant. It will be noted that Go Eng Chew applied for a writ of habeas corpus on behalf of only one of his three alleged sons, Go Chian, on the ground that the board of special inquiry the respondent had abused their discretion in denying him the right to l in the Philippine Islands. As already stated, the only witnesses presented to prove that Go Eng Chew was a merchant were two men who had bought shoes from him. No business man with whom Go Eng Chew had dealt as a merchant was called to testify. Neither Go Eng Chew himself nor his alleged partners were called for that purpose. The partnership was organized for a period of three years from January 1, 1929. The term for which the partnership was organized expired therefore on January 1, 1932, or two years prior to the rehearing on January 17, 1934. Under these circumstances we cannot say that the board of special inquiry the respondent erred in finding that the petitioner had failed to prove that he was a merchant.

The decision appealed from is affirmed, with the costs against the appellant.

Avancena, C. J., Abad Santos, Hull, and Diaz, JJ., concur.

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