

LAO HIAN, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.

G. R. No. 41613. September 06, 1934

Ponente: DIAZ, J.

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DIAZ, J.:

By virtue of administrative warrant of arrest No. 4461 issued on January 30, 1934, by the Insular Collector of Customs, under the authority conferred upon him by the provisions of the Act of Congress of February 5, 1917, the petitioner was arrested and brought before a board of special inquiry of the Bureau of Customs, in accordance with said warrant, so as to enable her to show cause, if any, why she should not be deported to China, her native land, for being a prostitute.

After the necessary investigation wherein she was afforded an opportunity to defend herself, the board found that she was really a prostitute and that she had furthermore succeeded in gaining admission to the Philippines through fraudulent means.

Concurring entirely in the points of view of said board, the respondent ordered the deportation of the petitioner and the latter, not agreeing with said order, instituted habeas corpus proceedings in the Court of First Instance of Manila, which is now under consideration.

After reviewing the evidence presented at the investigation, said court affirmed the decision of the respondent and the petitioner, again not agreeing with the decision of said court, she appealed therefrom assigning in her brief the following alleged errors, to wit:

"1. That the lower court erred in sustaining the decision of the respondent Collector of Customs and in not granting the writ of habeas corpus prayed for by the petitioner-appellant for her liberty, and in not finding that the respondent abused his authority.

"2. That the lower court erred in revoking its order of March 19, 1934, admitting the petitioner-appellant to bail pending the decision of this appeal."

Tan Kim, the Chinese woman who claimed to have lived with the petitioner and Yap Ah Huan in house No. 331, Gotamco Street, Pasay, testified that she and the petitioner, who is also a Chinese woman, had been engaged in prostitution and that furthermore the latter was known by the name of Kim Chu. On this testimony of said witness, the board based its conclusion that the petitioner was a prostitute. Said petitioner contends that the testimony of said woman is insufficient to support and prove the charge against her, particularly when she herself denied said charge.

As was noted, the petitioner's argument tends only to question the sufficiency of the evidence presented against her; but it is a well-established doctrine in this jurisdiction that courts cannot pass upon questions relative to the admissibility or sufficiency of the evidence adduced in an investigation conducted by the board of special inquiry of the Bureau of Customs in cases for the exclusion of aliens, after said board had admitted it (Cheng Tao Liap

Collector of Customs, 55 Phil., 894; Guevara Collector of Customs, 34 Phil., 394; Molden Collector of Customs, 34 Phil., 493; Ty Buan Collector of Customs, 34 Phil., 937; and that neither should they alter the conclusions arrived at by said board in an investigation of said nature, if the same are approved by the Collector of Customs and are, furthermore, supported by some evidence. This is so because then there could have been no abuse of discretion (Tan Beko Collector of Customs, 26 Phil., 254; Que Quay Collector of Customs, 33 Phil., 128, 135), which is the only question left for the courts to determine in cases of this nature. (Rafferty Judge of First Instance of Cebu, 7 Phil., 164; Chattamal Collector of Customs, 42 Phil., 916.)

On the other hand, the mere fact that the Collector of Customs refuses to believe the witnesses presented by an alien who is under investigation by him for the purpose of determining whether or not he is entitled to enter the country, does not, as was held in the case of Gnilo Collector of Customs (32 Phil., 100), constitute an abuse of authority or discretion.

Furthermore, in the case of Lim Cheng Collector of Customs (42 Phil., 876), and in that of Chattamal Collector of Customs, above cited, this court likewise held that the Insular Collector of Customs is not required to accept, as true, statements made by alien immigrants under investigation.

Therefore, this court holds that the board of special inquiry of the Bureau of Customs and the respondent have not abused their discretion or authority in declaring that the petitioner was a prostitute, because it was so proven by the testimony of Tan Kim.

Neither have the board of special inquiry of the Bureau of Customs and the respondent abused their discretion in declaring that the petitioner had succeeded in gaining admission to the Philippine Islands through fraudulent means, on the ground that according to the appealed order, when on May 19, 1926, the petitioner, who was then 8 years of age, entered these Islands for the first time, she testified that she was a daughter of Lao Pong, and that both her father and mother whose name she said she could not remember, were already dead. However, testifying in this case, she stated that her father's name was Lao Chu and that she arrived in the Philippines together with Tan Tut. The board of special inquiry of the Bureau of Customs as well as the respondent had a perfect right to take into consideration, together with other evidence presented before them, facts appearing in the records of their office although they have not been presented as evidence to that effect, because, as was held in the case of Chieng Ah Sui Collector of Customs (22 Phil., 361, 364), the board of special inquiry of the Bureau of Customs is a board connected with that branch of the Government and it had a perfect right to take judicial notice of relevant facts found in their records. Therefore, the petitioner's contention that the board and the respondent abused their discretion in taking into consideration certain documents which were not presented as evidence at the investigation, is of no moment.

On the other hand, inasmuch as deportation proceedings are not criminal proceedings according to the provisions of General Orders, No. 58, wherein the right of the accused to be confronted by the witnesses against him and to examine the evidence presented by the prosecution is recognized (U. S. Yap Kin Co, 22 Phil, 340; U. S. vs. De los Santos, 33 Phil., 397; Chua Go Collector of Customs, 59 Phil., 523), the petitioner had no right to examine or demand that she be shown her former testimony relative to her application for admission to these Islands, upon her arrival here for the first time on May 19, 1926.

Wherefore, this court being convinced that the appealed order is supported by the evidence and is in accordance with law, the same is hereby affirmed, thereby denying the petitioner's petition and further ordering that she again be placed in the custody of the respondent for the purposes required by law, with costs against the petitioner. So ordered.

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

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