

CHAN GAN IN BEHALF OF CHAN MO, PETITIONER AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.

G.R. No. 43997. October 30, 1935

Ponente: HULL, J.

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HULL, J.:

On April 27, 1935, immigrant Chan Mo arrived at the port of Manila and sought admission into this country as a minor son of petitioner Chan Gan, a Filipino citizen. On April 29, 1935, a board of special inquiry, after investigating and hearing the case, rendered a decision denying Chan Mo admission into this country. On June 7, 1935, Chan Mo was granted a rehearing, and a different board of special inquiry was named by the Insular Collector of Customs. After rehearing an adverse decision was again rendered and on appeal, affirmed. Whereupon a petition for a writ of habeas corpus was filed in the Court of First Instance, and at the hearing the records of the proceedings had before the customs authorities were presented, and the trial court granted the writ. From that decision the Government appeals.

The applicant swore that he was born in China on July 8, 1919, and that his older brother was Chan Sang, eighteen years of age (Chinese). The father testified that Chan Sang was born October 22, 1918. It is therefore evident that if these dates are correctly stated, applicant was not born after a normal period of gestation, and while it is not impossible for a child to be born under such circumstances and be a healthy, normal boy at fifteen years of age, such occurrences are not common. And it is proper for the customs authorities to take the matter into consideration.

There are some discrepancies between the father and the son as to whether or not there was a house on one side of the house in which the boy lived in China and whether or not the maternal grandparents of the applicant were living or dead. Upon the rehearing, the father corrected his testimony claiming that the house had been built since he was last in China and that he had misunderstood the question as to the applicant's maternal grandparents, thinking the question applied to his own parents, notwithstanding the fact that he had already been asked as to their status.

While these facts as pointed out by the board do not prove that the applicant is not the son of the petitioner, the question presented to the board was whether the applicant had proven in a satisfactory manner that he was the son of the petitioner, and before habeas corpus can properly be granted, it must be shown that the applicant did not have a fair hearing and that the board acted in an arbitrary or capricious manner. In the instant case the applicant was heard by two different boards, was represented by counsel, and no legal right was denied him.

While the proof that the filial relation does not exist is slight, it has not been conclusively proven that it does exist, and it is the duty of the customs officials to weigh the evidence presented and decide this question of fact.

On the whole case we are convinced that the board did not act arbitrarily or capriciously, that a fair hearing was granted, and that therefore the writ of habeas corpus should not be issued.

Judgment reversed. Costs against appellee. So ordered.

Avanceña, C.J., and Vickers, J., concur.

ABAD SANTOS, J.:

I concur in the result.

RECTO, J.:

I concur in the result.

Judgment reversed.

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