

BENITO MATEO, IN BEHALF OF HIS SON, SIM IT, PETITIONER, VS. THE INSULAR COLLECTOR OF CUSTOMS AND THE COURT OF APPEALS, RESPONDENTS.

G. R. No. 45282. September 21, 1936

Ponente: LAUREL, J.

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LAUREL, J.:

This is a petition for a writ of certiorari to review the decision of the Court of Appeals in case G. R. No. 140 of that court, entitled Benito Mateo vs. The Insular Collector of Customs.

It appears that on December 21, 1935 Sim It arrived at the port of Manila and sought admission into the country as a son of the petitioner Benito Mateo, a Filipino citizen. On December 28, 1935, the board of special inquiry conducted an investigation and denied the application for admission. The action of the board of special inquiry was approved by the Insular Collector of Customs. Thereafter, the petitioner instituted habeas corpus proceedings in the Court of First Instance of Manila. On February 5, 1936, Judge Marcelo T. Boncan of the Court of First Instance of Manila granted the petition for habeas corpus and ordered the release of Sim It who was then in the custody of the customs authorities. From this decision of the Court of First Instance of Manila an appeal was taken to the Court of Appeals which on July 27, 1936, reversed the decision of the Court of First Instance. Hence this petition.

Review of judgments and decrees of the Court of Appeals is limited to "cases in which only errors or questions of law are involved" (sec. 2, Commonwealth Act No. 3, amending sec. 138 of the Administrative Code, in relation to sec. 2, Art VIII, Constitution of the Philippines). Rule 47 of this court, as amended, prescribes the mode in respect to cases brought to the Supreme Court by appeal or bill of exceptions or on certiorari. The pertinent portions of this rule are as follows:

"JUDGMENTS OF THE COURTS OF FIRST INSTANCE—REVIEW ON APPEAL

"47. (a) In any of the cases enumerated under the second paragraph of section 138 of the Revised Administrative Code, as amended by Act No. 3 of the National Assembly, the party aggrieved by the decision, order, or decree of any Court of First Instance may appeal to this court in accordance with the rules heretofore followed in respect to cases of similar nature brought to this court by appeal or bill of exceptions.

"JUDGMENTS OF THE COURT OF APPEALS—PETITIONS FOR REVIEW ON CERTIORARI

"(6) A petition to this court for a writ of certiorari to review a decision of the Court of Appeals shall contain only a summary statement of the matter involved and the reasons relied on for the allowance of the writ. Only questions of law may be raised and must be distinctly set forth. The petition shall be accompanied by a certified copy of the decision sought to be reviewed, and both documents, together with 10 copies of the bill of exceptions or record on appeal as printed below, shall be filed with the clerk within ten days from the date of entry of the judgment involved. This court may, on its own motion or on motion of the respondent, dismiss the petition on the ground that it is manifest that the same was filed for delay only, or that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument. - - -

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44(e) A review on writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered:

"(1) When the Court of Appeals has decided a question of substance, not theretofore determined by this court, or has decided it in a way probably not in accord with law or with the applicable decisions of this court.

"(2) When the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of this court's power of supervision."

The petition in the present case does not raise any question of law. The board of special inquiry upon investigation found that the evidence in behalf of the applicant for admission was insufficient and contradictory and denied the application. This finding of the board of special inquiry, as stated, was approved by the Collector of Customs. The Court of First Instance of Manila disagreed with the board of special inquiry and the Collector of Customs on the credibility of the witnesses and the weight of the evidence presented and reversed the action of the board of special inquiry as approved by the Collector of Customs by granting the petition for a writ of habeas corpus. On appeal, the Court of Appeals, in turn, disagreed with the Court of First Instance on the appreciation of the evidence and reversed the latter's decision. Under these circumstances, we cannot review the decision of the Court of Appeals. Were we to do so it would hardly be possible to set any limit to the recurrence to this court in cases which under the law should terminate in the Court of Appeals. Upon the other hand, it should be observed that the Court of Appeals has decided the appeal before it in accordance with the applicable decisions of this court (*Tan Chin Hin vs. Collector of Customs*, 27 Phil., 521; *Sing Jing Talento vs. Collector of Customs*, 32 Phil., 82), and this is another reason why the present petition should not be entertained.

The petition is hereby dismissed with costs against the petitioner. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, and Recto, JJ., concur.

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