

**JOSE GALLOFIN, AS ACTING COLLECTOR OF CUSTOMS OF CEBU,
PETITIONER, VS. YUTI ORDONEZ AND CHUYTE ORDONEZ,
RESPONDENTS.**

G.R. No. 46782. June 27, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This is an original proceeding for a writ of certiorari to review the decision of the Court of Appeals promulgated on June 30, 1939, affirming the judgment of the Court of First Instance of Cebu which granted the writ of habeas corpus applied for by the herein respondents.

Yuti Ordoñez and Chuyte Ordonez, the respondents here, arrived at the Port of Cebu on April 2, 1938 from Amoy, China, and sought admission as the minor sons of one Toribio Ordoñez. The Board of Special Inquiry conducted an investigation, but while finding the claims of the applicants to have been factually established, denied them entry on the ground that their alleged father, being of a Chinese-Filipino caste, had no right to bring any member of his family into this country. This decision of the board was appealed to, and confirmed by, the Secretary of Labor. Upon petition for a writ of habeas corpus, the Court of First Instance of Cebu ordered the discharge of the respondents on the grounds that their father, by virtue of his being the natural son of a Filipino woman, is a Philippine citizen, and that, under the existing laws, he had not lost his citizenship as such. The Acting Collector of Customs of Cebu appealed to the Court of Appeals which confirmed the decision of the lower court a quo. To secure a review of this decision, the petitioner, through the Solicitor-General, now prays this court for the issuance of a writ of certiorari.

The following facts are deemed admitted: Toribio Ordonez was born in Pasay, Rizal, on April 27, 1891, of a Chinese father and a Filipino mother. In 1898, at the tender age of seven years, he left the Philippines to study in China, returning in July, 1918, with his landing certificate showing that he was allowed to reenter as the son of a Filipino woman. While in China, he married Ng Koai, a Chinese woman, with whom he had five children including the herein respondents. It appears that he supported his family and visited them in China on two occasions, all the while resuming his domicile here on the virtuality of his landing certificate.

On the authority of *Ramon Torres vs. Tan Chim*, G. R. No 46593, promulgated February 3, 1940, and *Santos Co. vs. Government of the Philippine Islands* (52 Phil., 543), the decision of the Court of Appeals is hereby affirmed, without pronouncement regarding costs. So ordered.

Avanceña, C.J., Imperial, Diaz, and Concepcion, JJ., concur.

DISSENTING

MORAN, J.:

I dissent for the same reasons stated in my dissenting opinion in the basic case of *Torres vs. Tan Chim*, G. R. No.

46593.

Judgment affirmed.

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