

CHIENG AH SUI, PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 6579. March 26, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

The present action was commenced in the Court of First Instance of the city of Manila by filing a petition for a writ of habeas corpus.

After hearing the evidence, the Honorable A. S. Crossfield, judge, granted the writ as prayed for, from which order the Collector of Customs appealed to this court.

It appears from the record that some time prior to the commencement of the action in the lower court, a Chinaman by the name of Chieng Ah Soon, who claimed to be a merchant doing business' at Nos. 79 and 81 Calle San Jacinto, in the city of Manila, returned from China bringing with him two boys, named respectively Chieng Ah Lui, 20 years of age, and Chieng Ah Sui, 16 years of age. These boys, Chieng Ah Lui and Chieng Ah Sui, were at first denied admission into the Philippine Islands. An investigation was held by the board of special inquiry, which board, after hearing all of the witnesses which the father, Ah Soon, desired to present, found that the said Ah Lui was the son of Ah Soon and therefore admitted him. The board, from the evidence, found that Ah Sui was not the son of Ah Soon, and refused him admission. From that decision Ah Soon appealed to the Insular Collector of Customs, the Honorable H. B. McCoy, who, upon due investigation, found that Ah Sui was not the person that he represented himself to be and was not the son of Ah Soon, and therefore confirmed the decision of the board of special inquiry.

Upon petition a second hearing was accorded by the board of special inquiry, and again it was decided that Ah Sui was not the son of Ah Soon, and therefore not entitled to enter the Philippine Islands. Again an appeal was made to the Insular Collector of Customs, who again confirmed the finding of the board of special inquiry.

A third hearing was asked for and granted by the Collector of Customs. Upon the third hearing the board of special inquiry, after hearing all of the evidence which Ah Soon offered, again found that Ah Sui was not entitled to enter the Philippine Islands. A third appeal was taken to the Insular Collector of Customs, and again the finding of the board of special inquiry was affirmed.

A fourth hearing was asked for on the part of Ah Soon, which was denied by the Insular Collector of Customs in the following language:

"In reply to yours dated the 14th instant (September, 1910) requesting a rehearing in the case of Chieng Ah Sui, I have to inform you that in this case the records show that three separate and distinct hearings have been given, at each of which testimony was introduced on behalf of the applicant, and the record of each of these hearings discloses the fact that all of the witnesses presented were heard. It would seem that this applicant has had every reasonable and necessary opportunity to present any testimony which tended to prove his right to enter the Philippine Islands. These hearings were held on July 19 and 23, and August 10, while the decision of

the Insular Collector of Customs upon the appeal therefrom was not rendered until September 3, one and a half months after the first hearing. It would appear that even reasonable diligence would have secured the attendance of any necessary or competent witnesses within the time stated prior to the decision of this case on September 3.

"For the foregoing reasons the application for rehearing is denied.

(Signed) "H. B. MCCOY,

"Insular Collector of Customs"

From the third decision of Colonel McCoy, as Insular Collector of Customs, an appeal was taken to the Court of First Instance, and there some proof was taken in addition to that submitted before the board of special inquiry. Upon the record in the present case, the right of the Court of First Instance to take evidence in addition to that presented to the board of special inquiry is very questionable indeed. In the present case, however, the judge of the Court of First Instance declared that the testimony taken before him in no way influenced his judgment in declaring that the applicant was entitled to the writ of habeas corpus.

Several Chinese witnesses before the board of special inquiry claimed that they knew Ah Soon and his family in China; that they lived in the same town and swore that he had several children, among whom was the boy Ah Sui. It appears also from the record that some months prior to the time when Ah Soon returned to the Philippine Islands with the two boys Chieng Ah Lui and Chieng Ah Sui, and upon leaving the Philippine Islands for China, he made a declaration which was placed on file in the office of the Insular Collector of Customs, in which he gave the names of the members of his family. The name of Ah Sui did not appear then as a member of his family. Ah Sui was sixteen years of age. If he were a member of the family when Ah Soon returned to the Philippine Islands, he must have been a member of the family a few months theretofore. Children do not reach the age of sixteen years in a few months. Some objection was made to the right of the board of, special inquiry to take notice of said declaration presented by Ah Soon in relation to the members of his family. The declaration constituted a part of the records of the office of the Insular Collector of Customs. The board of special inquiry is a board connected with that branch of the Government and it had a perfect right to take judicial notice of relevant factg found in their records.

We are of the opinion that the Insular Collector of Customs in no way abused the discretion conferred upon him in reaching the conclusion that Chieng Ah Sui was not the son of Ah Soon and was, therefore, not entitled to enter the Philippine Islands.

Upon all of the facts contained in the record, we are of the opinion that the order of the lower court admitting into the Philippine Islands the Chinese boy, Chieng Ah Sui, should be revoked, and that an order should issue that the said Chieng Ah Sui should be returned to the custody of the Insular Collector of Customs, in order that he may be deported, in accordance with the law. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Trent, JJ., concur.

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