

SANTIAGO VAÑO UY TAT TONG, PLAINTIFF AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLEE.

G.R. No. 6769. November 20, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 19th of October, 1909, on the steamship Rubi, Santiago Vaño of the age of 18 years, Matilde Vaño, a girl of the age of 15 years, Celestina Vaño, a girl of the age of 10 years, arrived at the port of Manila and requested permission to enter the Philippine Islands. It is admitted that these three persons were born in the Philippine Islands were brother and sisters and the legitimate children of the same father and mother.

The board of special inquiry found that Matilde Vaño and Celestina Vaño had a right to enter the Philippine Islands. Upon the application of said Santiago Vaño, the board found that he was a Chinese person and was therefore not entitled to enter the Philippine Islands. From that decision Santiago Vaño appealed to the Collector of Customs, where the decision of the board of special inquiry refusing him permission to land the Philippine Islands was affirmed.

Later Santiago Vaño presented a petition for the writ of habeas corpus to the Court of First Instance of the city of Manila, which was denied and was ordered to be remanded to the custody of the Collector of Customs in order that the judgment of the Collector ordering his deportation might be carried into effect.

From that decision of the Court of First Instance Santiago Vaño appealed this court.

It is claimed on the part of the appellant that he was born in the city of Cebu, Philippine Islands, on the 11th of October, 1892, and has lived in Islands ever since his birth, except for a period of about six months, his father, by reason of ill health, visited China, taking him and his t mentioned above, with him; that his father died in China from said infirmity that he and his two sisters, immediately after the death of his father, returned to the Philippine Islands on the steamship Rubi, on or about the 19th of October, 1909; that his mother was Filipina woman and had died some years before his father took him and his two sisters to China; that he had an older brother in the Philippine Islands, in the Province of Cebu, who was to look after him and his two sisters; that only relatives which he has are residents of the Philippine Islands; the father and mother were residents of the Philippine Islands at the time of American occupation and had been for many years theretofore; that at the time he accompanied his father and sisters to China it was with the express intention of returning to the Philippine Islands.

He presents several recommendations, one signed by Mr. Gilbert, supervising teacher of Dumanhug of the Province of Cebu, in which he is recommended very highly as a student, together with the statement that he had been a student in the American schools of the Philippine Islands for a period five years and had made very rapid progress. He also presents a certificate from the division superintendent of schools of the Province Cebu, in which it is stated that he was a student and had completed the course of study for the fourth grade. He presents also letters of recommendation from the municipal president of the municipality of Malabuyog of the Province of

Cebu, as well as a certificate of residence issued by the Insular collector of customs of the port of Cebu.

There can be no question about the identity of Santiago Vaño. The foregoing facts are not denied. The only question presented to this court under the facts found in the record is whether or not he is a citizen and entitled to remain in, the Philippine Islands, even though he is Chinese descent. That question has been decided by this court in the affirmative in the cases of *U. S. vs. Go Siaco* (12 Phil. Rep., 4 *Muñoz vs. the Collector of Customs* (20 Phil. Rep., 494); *Roa vs. The Collector of Customs* (page 315, ante).

It having been decided that Santiago Vaño was a citizen of the Philippine Islands, by virtue of his birth and residence, the Chinese Exclusion Law not apply to him and an abuse of authority was committed by the executive department of the Government when he was excluded in the manner above indicated, and therefore the courts had a right to take jurisdiction of the cause by the means of an application for the writ of habeas corpus and to examine into and revise the finding of that department of the Government. The Chinese Exclusion Law can not be invoked for the purpose of keeping out of the Philippine Islands actual bona fide citizen said Islands. It is an abuse of authority on the part of the Insular of Customs to apply said Exclusion Law to bona fide citizens of the Philippine Islands. (*Go Kiam vs. The Collector of Customs*, R. G. No. 709[1]; *Ang Eng Chong vs. The Collector of Customs*, R. G. No. 7096 [2] ; *Loo Bun Hian vs. The Collector of Customs*, R. G. No. 7074.[3])

For the foregoing reasons the judgment of the Court of First Instance affirming the decision of the Collector of Customs is hereby reversed it is ordered and decreed that the said Santiago Vaño be permitted to enter the Philippine Islands. Without any finding as to costs.

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

Carson, Moreland, and Trent, JJ., concur in the result.

[1] Not published; November 20, 1912.

[2] Page 614, post

[3] Not published; December 12, 1912.

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