

ANG ENG CHONG, PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 7096. December 12, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

The record shows that upon the 6th day of January, 1911, two Chinese boy Ang Eng Chong and Ang Tiao Chuan, of the respective ages of 17 and 19, who claimed to be brothers and sons of Ang Co, arrived at the port of Manila on the steamship Yingchow and asked to be admitted into the Philippine Islands.

The fact is not denied that Ang Co, the alleged father, was a merchant engaged in the dry goods business in the city of Manila.

After hearing the evidence, the board of special inquiry found that Ang T Chuan was a minor and the legitimate son of Ang Co and admitted him into the Philippine Islands. The said board however found from the evidence that Ang Eng Chong was not the legitimate son of Ang Co and refused him admission. From that decision of the board of special inquiry Ang Eng Chong appealed to the Collector of Customs who affirmed the decision of said board. Later he presented a petition for the writ of habeas corpus the Court of First Instance of the city of Manila.

After an examination of the record and the testimony adduced, the Honorable A. S. Crossfield, judge, found that there was an abuse of discretion on the part of the board of special inquiry in denying the petitioner the to land in the Philippine Islands and directed that Ang Eng Chong be discharged from the custody of the law and be admitted into the Philippine Islands, From that order the Attorney-General appealed to this court.

The principal assignment of error made by the Attorney-General is that the Court of First Instance erred in reviewing, revising, and reversing the of the customs authorities, and in holding that there was an abuse of authority on the part of such officers in denying the petitioner's right to

The Supreme Court of the United States, the district and circuit courts, as this court, have decided in numerous cases that the decision of the proper immigration officers in denying a Chinese person the right to land territory of the United States is final, unless there has been an abuse of authority. (*Ngo-Ti vs. Shuster*, 7 Phil. Rep., 355; *U. S. vs. Lo Po McCoy*, 8 Phil. Rep., 343.)

The question presented by the appeal in the present case is, therefore, w or not there was an abuse of authority on the part of the board of special inquiry. The law has conferred upon the executive branch of the Government the right to determine, of the excluded classes of aliens, who are entitle enter the territory of the United States. The law makes the conclusion that department of the Government final, subject to certain exceptions which will be noted later. The judicial department of the Government, however, the right, in a proper proceeding, to determine whether or not in the exercise of that authority there has been an abuse of the authority conferred by law. If there has been no abuse of the authority conferred by law, then decision of the executive department of the Government is final and the courts are without jurisdiction to consider the question. Abuse of authority on the part of the

officers of the executive department of the Government, is the only basis upon which the courts will assume jurisdiction to revise, or reverse the decisions of that department. The courts must, therefore, at the outset determine whether there has been an abuse of authority on the part of the officials of the executive department of the Government. If the courts find that there has been no abuse of authority then they have no jurisdiction to revise, review, or reverse the conclusion reached by the executive department of the Government. This being true, becomes important to determine what will amount to an abuse of authority. We think that a careful review of the numerous decisions upon this quest justifies the following conclusions upon that point. An abuse of authority certainly exists:

(a) When a person has been denied admission into the territory of United States who does not belong to any of the excluded classes. For example: A citizen of the United States or any other person who has acquired a right to be in and to remain in territory of the United States (U. S. vs. Go-Siaco, 12 Phil. Rep., 490; Munoz vs. Collect Customs, 20 Phil. Rep., 494; U. S. vs. Yu Kiao, 20 Phil. Rep., vs. Gue Lim, 176 U. S., 459; 83 Fed. Rep., 136.)

(b) When a person seeking admission has not been given a full, fair hearing. For example, when he has not been given an opportunity to present all the material proof which he desires to present. (Ngo-Ti vs. Shuster, 7 Phil. Rep., 355; U. S. vs. Ju Toy, 198 U. S., vs. McCoy, 8 Phil. Rep., 343.)

(c) When there is no proof at all presented against the right applicant seeking admission. (U. S. vs. Williams, 189 Fed. Rep.,

An examination of the evidence presented before said board shows that there were many contradictory statements made by the two alleged brothers concerning particular facts, with reference to which they were questioned. The two boys claimed that they were brothers and had lived in the same house in China. Notwithstanding this claim, they told different stories with reference to the kind of house in which they had lived. Neither did they agree as to what had been the occupation of each. They each told different stories. Boys of the ages of 17 and 19, who have lived together in the same house, children of the same parents, ought to be able to agree with reference to the kind of house in which they had lived, well as to the occupation of each, in a general way. Neither did the declarations of Ang Eng Chong agree with the declarations of his alleged father, in many important facts. These conflicting statements upon facts with which both of these boys, if they were in fact brothers, should have been perfectly familiar, caused the board of special inquiry to doubt the truthfulness of the statements of Ang Eng Chong and accordingly held that he was not the legitimate minor son of Ang Co and was therefore not entitled to enter the Philippine Islands. The board of special inquiry, the law, had a right to examine the applicant upon the question of his right to enter the Philippine Islands. Their right to examine into that involves their right to pass upon the sufficiency of the evidence. If the applicant belonged to the class which was excluded under the law, and if there was some evidence to support the finding of the board, and if he was given a full, fair, and free hearing, then the courts will not take jurisdiction for the purpose of revising and reversing the conclusions of the board, unless there has been some abuse of authority.

In the present case it clearly appears that the defendant was among the class of persons excluded under the law. The record also discloses that the defendant was given an opportunity to present all the proof he had upon the question of his right to enter. There was some proof supporting the conclusions of the board of special inquiry.

Taking into consideration the conflicting statements of the applicant, together with the fact that the board of special inquiry had an opportunity to see him and hear his declarations and to weigh his testimony together with that of the witnesses presented by him, we are of the opinion that there was no abuse of authority on the part of the board of special inquiry and that the judgment of the Collector of Customs should be affirmed.

Therefore the judgment of the Court of First Instance reversing the judgment of the board of special inquiry and

admitting the applicant to the Philippine Islands should be and is hereby reversed, and, without any finding as to costs, it is so ordered.

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

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

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