

THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. LEE CHIAO, DEFENDANT AND APPELLEE.*G.R. No. 7718. November 27, 1912*

Ponente: JOHNSON, J.

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This action was commenced in the Court of First Instance of the city of Manila, for the purpose of deporting from the Philippine Islands the defendant, who is a Chinese person. The complaint was presented in said court by Sandalio Rodriguez, who described himself as "un oficial debidamente autorizado por el departamento de inmigracion de la Aduana de Manila, Islas Filipinas."

Upon said complaint a warrant of arrest was issued and the defendant was duly arrested and brought before the court. At the time fixed for the the attorney for the defendant presented a motion to quash the warrant of arrest, for the reason that it was issued upon an insufficient affidavit complaint. The attorney for the defendant alleged that under the provisions of the Act of Congress of March 3, 1901 (section 3) no warrant of arrest for a violation of the Chinese Exclusion Law could be issued, except upon the sworn complaint of the United States district attorney, the assistant United States district attorney, the collector, collector or inspector of customs, the immigration inspector, the United marshal or United States deputy marshal or the Chinese inspector, the issuing of such warrant of arrest shall first be approved or request writing by the United States district attorney of the district in which is issued. This motion to quash was granted by the Honorable Charles S. Lobingier, judge. From that decision, the Attorney-General appealed to court.

The appellant insists that Act No. 702 of the Philippine Commission con the procedure to be adopted in the deportation of Chinese laborers who are found in the Philippine Islands without the certificate required by said Act No. 702. In reading said Act No. 702, it will be noted that there is no provision whatever relating to the persons who may p the sworn complaint provided for in said Act of Congress of March 3, 1901. Said Act No. 702 provides that any Chinese person found in the Philippine Islands without the certificate of registration required by the time provided for has elapsed, "may be arrested, upon a warrant issued by the Court of First Instance of the province or by the justices court municipality, returnable before said Court of First Instance, by any customs official, police, Constabulary or other peace officer of the Philippine Islands." While this Act No. 702 provides who may make the arrest, contains no provision whatever relating to the person who may make the sworn complaint upon which the warrant of arrest may be issued.

In view of the positive provisions above quoted of the Act of Congress of March 3, 1901, and in view of the fact that Act No. 702 makes no provision relating to the sworn complaint upon which the warrant of arrest may issue, and holding as we do that a complaint must be presented, we are of the opinion that the provisions of said Act of Congress must be followed with reference to the persons who may present such sworn complaint to the proper court, upon which the warrant of arrest may A number of said officers mentioned in said Act of Congress exist, in n in the Philippine Islands. Congress evidently had a purpose in providing certain persons only should make the sworn complaint upon which Chinese persons might be arrested for deportation. This purpose, as was suggest by

the lower court, was evidently to prevent great abuses in the form of blackmail, etc., which might creep into the procedure and fail of detect

It may be argued that the officials, who are required to make the sworn complaint mentioned in the said Act of Congress (March 3, 1901), are not found in the Philippine Islands. We have certain officials, however, in Philippine Islands who bear the same relation to the Government of the Philippine Islands which the officers mentioned in the said Act bear to Government of the United States. Certainly it was not the intention of Congress, when it provided by the Act of April 29, 1902, that the Philippine Legislature should provide the procedure for the deportation of Chinese persons, to permit such Legislature to disregard certain positive provisions of law relating to the procedure, in the same class of cases, in the United States. Neither are we of the opinion that the Philippine Legislature in adoption No. 702 intended to allow warrants of arrest to issue without the presentation of a sworn complaint by some competent person. In the present case the said Sandalio Rodriguez, as appears from the record, made a preliminary examination into the rights of the defendant, before the complaint was presented. In that preliminary examination it appears that was a clerk in the immigration division of the Bureau of Customs. We are of the opinion, after a careful consideration of the provisions of the Act of Congress of March 3, 1901, that Sandalio Rodriguez was not authorized to present the complaint in the present case. Congress provided that certain persons only, holding a certain relation to the Government, should be permitted to make the sworn complaint. We do not believe that the Congress of the United States intended to place a greater impediment to the administration of the Immigration Laws in the United States than was intended to be imposed upon the administration of the same laws in the Philippine Islands. Neither do we believe that the Philippine Legislature, in passing Act 702, intended that the warrant of arrest should be issued except in accordance with the Act of Congress then in force and expressly extended to the Philippine Islands.

By the Act of Congress of April 29, 1902, as amended and reenacted by section 5 of the Act of April 27, 1904 (32 Statutes at Large, part 1, p. 176; 33 Statutes at Large, pp. 394-428), all laws in force on said date, regulating, suspending or prohibiting the coming of Chinese persons or persons of Chinese descent into the United States, and the residence of persons therein, including sections 5, 6, 7, 8, 9, 10, 11, 13 and 14 of the Act of September 13, 1888, were reenacted, extended, and continued without modification, limitation, or condition; and said laws were also the same Act, extended and made applicable to the island territory under the jurisdiction of the United States.

In view of the positive requirements of said Act of Congress (Act of March 3, 1901, sec. 3), relating to the only persons who can make the sworn complaint in cases like the present, and the absence of any provision whatever in said Act No. 702, we are of the opinion that the complaint here must be presented by officers of the Philippine Government bearing same relation to said Government which the officers mentioned in said Act of Congress bear to the United States Government.

For the foregoing reasons we are of the opinion and so hold that the judgment of the court below should be affirmed, and it is so ordered.

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

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