

YOUNG WAMPO, PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 8017. March 11, 1913

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record it appears that Young Wampo, a Chinese person, 35 years of age, arrived at Manila on the 6th of May, 1910, on the steamship Taming, and requested permission to enter the Philippine Islands. A board of special inquiry made an investigation of his right to enter the Islands and reached the conclusion that he was not so entitled.

From the decision of the board of special inquiry an appeal was taken to the Insular Collector of Customs, where the same was affirmed.

Later a petition for the writ of certiorari was presented by the said Young Wampo in the Court of First Instance of the city of Manila, praying that the Insular Collector of Customs be ordered to certify to said court a transcript of the record and proceedings before the board of special inquiry, in order that the same might be reviewed.

To said petition the Insular Collector of Customs first filed a general and special answer. Later said general and special answer was withdrawn and a demurrer was presented on behalf of the Insular Collector of Customs, based upon the ground that the Court of First Instance was without jurisdiction to hear and try the question presented.

After hearing the arguments upon the said demurrer, the Honorable Charles S. Lobingier, judge, overruled the said demurrer and proceeded to hear the case upon its merits, and finally rendered a judgment revoking and annulling the order of the Insular Collector of Customs denying the right of said Young Wampo to enter the Philippine Islands.

From that judgment the Insular Collector of Customs appealed to this court and assigns as his principal error here, that the Court of First Instance was without jurisdiction to revise, modify, reverse or annul the decision of the Collector of Customs under the procedure adopted by the appellee.

The remedy of certiorari can only be invoked "when the ground of the complaint in an action in a Court of First Instance (or the Supreme Court) is that an inferior tribunal, board, or officer exercising judicial functions has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor any plain, speedy, and adequate remedy." (Secs. 217 and 514, Act No. 190.) We have in numerous cases decided that the Collector of Customs has jurisdiction to inquire into the right of an alien immigrant to enter the Philippine Islands. (In re Allen, 2 Phil. Rep., 630; Ngo-Ti vs. Shuster, 7 Phil. Rep., 355.) The foregoing decisions and others that might be cited would seem to be sufficient to establish the fact that the Collector of Customs has jurisdiction in a case like the present and that the writ of certiorari would never be the proper remedy in a case against him.

There exists, however, another objection which would seem to be sufficient to solve the question presented by the appellee; that is, that the remedy by certiorari can never be invoked when another plain, speedy, and adequate

remedy exists. No remedy is more speedy nor adequate than that of habeas corpus. If the Collector of Customs has abused the authority conferred upon him by law in denying to the plaintiff the rights to which he is entitled and the privileges which belong to him, his remedy is by a petition for the writ of habeas corpus and not by certiorari.

Therefore, the sentence of the lower court is hereby reversed and the order of the Insular Collector of Customs denying the petitioner the right to enter the Philippine Islands is hereby affirmed, without any finding as to costs.

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

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