

THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. ALFONSO TAN CHUY HO, DEFENDANT AND APPELLEE.*G. R. No. 9236. September 02, 1915*

Ponente: JOHNSON, J.

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On the 20th of July, 1912, a complaint was presented charging the defendant with being a laborer and being in the Philippine Islands without a laborer's certificate, contrary to the provisions of Act No. 702. He was arrested and brought before the inspector of immigration and was duly examined. He testified that he was the son of a Chinese laborer residing in the Philippine Islands; that he was 22 years of age; that he had been in the Philippine Islands for fifteen years; that he was a tinsmith; that he came to the Philippine Islands with his father when he was 7 or 8 years of age. The inspector of immigration, after examining the defendant, made the following statement:

"It is a well-established principle, that laws should be sensibly construed, and to hold that the child of every laborer during the registration period should have registered would in many instances lead to absurd results. No one would hardly advance the proposition that a child in arms, for instance, is a Chinese laborer, under this Act (No. 702)."

The matter seems to have been referred to the acting chief of the immigration division of the Department of Customs who, after examining the record, made the following statement: "While it is believed that this man is entitled to remain in the Philippine Islands without registering, it is thought best to take him to the Court of First Instance and get a judicial decision which will protect him in the future, as there is no way in which the Insular Collector of Customs can issue him either a landing certificate of residence or a certificate of residence."

The question was finally submitted to the Honorable A. S. Crossfield, judge of the Court of First Instance, who, upon an examination of the record, reached the conclusion that the defendant could not be deported from the Philippine Islands under said Act No. 702, and ordered him discharged from custody, with costs de officio. From that decision the plaintiff appealed to this court. In this court the appellant makes the following assignments of error: "(1) The court erred in holding that the defendant cannot be 'considered to have been a laborer at the time of the passage of the Act (No. 702), or at the time of the issuing of the certificate of registration required therein. (2) The court erred in holding that the defendant is not subject to deportation 'under the complaint herein (3) The court erred in ordering that 'the complaint be dismissed and that the respondent, Alfonso Tan Chuy Ho, be discharged from any custody in which he is. "

The record shows that at the time the defendant was arrested in 1912, he was 22 years of age. The record shows that he had been in the Philippine Islands fifteen years. Act No. 702 was adopted in the month of March, 1903. At the time of the adoption of Act No. 702, the defendant was 13 years of age. Act No. 702 required laborers to register within a period of one year. It is difficult to conceive upon what theory a child of 13 years of age can be considered a laborer. If he was not a laborer, then it would seem to be clear that Act No. 702 did not apply to him and he could not, therefore, be required to register or to obtain a laborer's certificate. Said Act required laborers to register. While there is no information in the record upon the subject, it would seem to be a matter of common

knowledge that many Chinese laborers, at the time Act No. 702 was adopted, were in the Philippine Islands with their minor children. The law certainly did not contemplate that the father, who was a laborer and who was required to register, should also register his minor children as laborers. Neither do we believe that such minor children, even after having reached mature age, could be required to register under said Act, unless perchance they had reached their majority during the period within which registration was required. Neither do we believe that the failure of minor children to register, even after reaching their majority, if that was after the period of registration, would justify their deportation under the law. We do not believe that the defendant can be deported from the Philippine Islands, simply for the reason that he did not register under Act No. 702.

The necessity for registration under Act No. 702 depended upon the status of the Chinaman during the period within which the registration had to be made. If, by reason of his status during that period he was not required to register, no change in his status after the expiration of said period could affect his right, or make it necessary for him to register. Upon the other hand, if by reason of his status during the period within which the law required him to register it was necessary to register, he could not, after the expiration of said period, change his status and thereby be relieved from the necessity of registration. In other words, the law required laborers only to register. If during the period of registration a Chinaman was a merchant, it was not necessary for him to register. Neither would it be necessary for him to register even though after the expiration of the period for registration he became a laborer.

Moreover, if he was a laborer during the period within which he was required to register, he could not avoid the effects of his failure to register by subsequently becoming a merchant. The fact that he changed his status from that of a laborer to that of a merchant could not avail him. It is the status which he enjoyed during the period for registration which determines his rights. If he was a laborer then and subject to registration, the fact that he became a merchant later would not avail him. (U. S. vs. Ldm Co, 12 Phil. Rep., 703; Juan Co vs. Rafferty, 14 Phil. Rep., 235; U. S. vs. Yu Wa, 28 Phil. Rep., 1; U. S. vs. Sia Lam Han, 29 Phil. Rep., 159; U. S. vs. Sing Lee, 71 Fed. Rep., 680.)

In this latter case it was held that a person, who was a merchant when the Act of Congress of May 5, 1892, was passed, was not liable to deportation because he became a laborer afterwards. (In re Chin Ark Wing, 115 Fed. Rep., 412; U. S. vs. Louie Juen, 128 Fed. Rep., 522; U. S. vs. Leo Won Tong, 132 Fed. Rep., 190.)

In the case of In re Yew Bing Hi (128 Fed. Rep., 319) it was decided that a Chinaman who entered the territory of the United States as a merchant in 1897, and later became a laborer, could not be deported because the Registration Act had omitted to provide for such a situation.

Our attention is called by the appellant to the case of United States vs. Joe Dick (134 Fed. Rep., 988). In that case Joe Dick was born in China in 1874. In the same year his father came to the United States and began trading as a merchant in the city of San Francisco. In 1882 the father sent for his son (Joe Dick). The boy was brought over by a cousin, and went to live in his father's house and family. In 1886 the father sold out his interest in the business and left the country permanently and went back to China, where he has since remained. Joe Dick declined to accompany his father and, being thrown upon his own resources, began to earn his living by manual labor. The proof showed that he knew that laborers were required to register by the Acts of 1892 and 1893, according to his own admissions, but he did not ask for a certificate for the reason, as he stated, that he did not have any money then. At that time he was between 18 and 19 years of age. He was arrested, taken before a United States Commissioner, and was ordered deported for the reason that he had not registered. The decision of the Commissioner was appealed to the Federal Court and was affirmed. In the argument of the attorney for the Government it was stated that: "If, when the Acts of 1892 and 1893 were passed, the appellant was privileged to remain in the territory of the United States as a minor son of a Chinese merchant, he is not now liable to

deportation. It was evidently not the intention of the Registration Acts to require those to register who, in the eye of the law, were not laborers at the date of the passage of the Acts." That case differs from the one we are now discussing in this, that Joe Dick was a laborer, even though a minor of 18 or 19 years of age, and knew that laborers were obliged to register. In the present case the appellee was a child of 13 years of age. He had been admitted into the territory of the Philippine Islands rightfully. There is no proof that he was a laborer during the period within which the law required laborers to register. It is argued that children take the status of their father; that the father was admittedly a laborer, and that therefore the appellee was a laborer. That logic is correct in theory only. There are many exceptions to it. It would hardly be contended that a child in its mother's arms, the son of a laborer, was a laborer. Suppose that in such a case the father should abandon the child of so tender years during the period within which laborers were required to register. Would any court hold that the child could be deported for its failure to register? Such a rule is so repugnant to justice and so contrary to common sense that we do not believe that any reputable lawyer or court would sustain it. We do not believe that courts of justice would consent to apply a rule requiring children to register, and in case of their failure so to do, compel them to seek, in a distant land, a domicile where, perhaps, they would be left without parents or friends.

For the reasons stated, the judgment of the lower court is hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, and Araullo, JJ., concur.

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