

LEE WING SENG, PETITIONER AND APPELLANT, VS. THE INSULAR COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLEE.

G.R. No. 9662. March 25, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

It appears from the record that the appellant in the present case was born in the Philippine Islands; that he was 23 years of age; that on one or two occasions during his minority he had been to China and returned to the Philippine Islands and was permitted to enter without question; that on the last occasion of his return from China, where he had gone for a temporary stay only, he was refused the right to land by the department of customs; whereupon he sued out a writ of habeas corpus in the Court of First Instance of the city of Manila. After a consideration of all the facts by the Court of First Instance, said court found that there had been no abuse of authority on the part of the customs authorities, and therefore affirmed the conclusions of said department.

From that decision the petitioner and appellant appealed to this court.

An examination of the proof adduced before the customs authorities shows, beyond question, that the appellant was born in the Philippine Islands, as he alleged. He is, therefore, a citizen of the Philippine Islands and has a right to enter. While it has been decided time and time again that the courts will not take jurisdiction of alien immigration cases which have been passed upon by the department of customs, until and unless it is shown that said department has abused its power or authority, yet, nevertheless, if they have misapplied the law to undisputed facts, the courts will, upon that ground alone, take jurisdiction and decide the cases in accordance with the law and the admitted facts. In the present case there was no proof whatever disputing the fact that the appellant was born in the Philippine Islands.

In view of the foregoing consideration, we are of the opinion that the judgment of the lower court should be reversed and that the appellant should be admitted. The order of deportation is therefore hereby revoked, and without any finding as to costs, it is so ordered.

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

MORELAND, J., concurring:

I concur, making the same suggestion as in case No. 9854 (not reported) relative to a citizen.

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