

**LOO SING, ON BEHALF OF LOO GEE, PETITIONER AND APPELLEE,
VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND
APPELLANT.***G.R. No. 9721. August 08, 1914*

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record it appears that on or about the 12th day of October, 1912, the said Loo Sing, of the age of 52 years, and his three alleged sons Loo Tong, of the age of 20 years, Loo Gee, of the age of 18 years, and Loo Lai, of the age of 16 years, arrived in the Philippine Islands on the steamship Rubi, and were detained at Mariveles by the quarantine officers until the 21st day of October, when they were brought to the port of Manila. Some question arose concerning their right to enter the Philippine Islands and the board of special inquiry of the port of Manila commenced an investigation for the purpose of determining that question. At the conclusion of said investigation, the board found that Loo Sing was a naturalized citizen of the Hawaiian Kingdom, prior to the ownership of the Hawaiian Islands by the United States, and had become a citizen of the United States upon the establishment of the United States government there and was, therefore, entitled to be admitted into the Philippine Islands as an American citizen. The said board, however, found that the three alleged sons, Loo Tong, Loo Gee, and Loo Lai, were not entitled to enter, for the reason that they had furnished no proof sufficient to justify their claim.

From that conclusion an appeal was taken to the Collector of Customs. During the pendency of the appeal, the Collector of Customs of the Philippine Islands sent a communication to the customs authorities at Honolulu, asking them to make an investigation and a report concerning the right of the said Loo Sing and his three alleged children to enter the Philippine Islands. Said communication was duly received by the customs authorities at Honolulu, and in the month of December (December 3 and 4), 1912, an investigation was had by said customs authorities. The report of said investigation was duly received by the Collector of Customs of the Philippine Islands. Whereupon he examined the appeal theretofore made by the three sons, taking into consideration, in relation with the proof taken before the board of special inquiry, the evidence adduced before the customs authorities at Honolulu, and thereafter ordered a rehearing before the said board of special inquiry, for the purpose of reconsidering the right of the three alleged sons to enter the Philippine Islands.

The second hearing before the board of special inquiry was commenced on January 8, 1913, and additional proof was adduced. At the conclusion of the second hearing, the board of special inquiry, after considering all of the proof that had been adduced before it, as well as the report submitted by the customs authorities at Honolulu, arrived at the conclusion that two of the alleged sons, Loo Tong and Loo Lai, were the legitimate minor sons of Loo Sing, and were therefore entitled to be admitted into the Philippine Islands. Said board further found that the proof did not show that Loo Gee was the legitimate son of Loo Sing, and denied his right to enter the Philippine Islands.

From that conclusion an appeal was taken to the Collector of Customs on behalf of Loo Gee. The Collector of Customs, upon a consideration of the second appeal, rendered his decision on the 29th day of January, 1913, and again considering the report of the customs authorities of Honolulu, in relation with the proof taken before the board of special inquiry, affirmed the conclusions of the board and refused Loo Gee the right to enter the Philippine Islands.

Thereafter, and on the 17th day of September, 1913, the said Loo Sing, on behalf of his alleged son Loo Gee, presented a petition for the writ of habeas corpus in the Court of First Instance of the city of Manila. The Collector of Customs made a return to the order to show cause, in which he set forth all of the proof taken before the board of special inquiry of Manila, as well as that taken before the customs authorities in Honolulu. All of the questions were submitted to the Court of First Instance upon the record and the return made by the Collector of Customs.

After a consideration of all of the facts contained in the record, the Honorable A. S. Crossfield, judge, found that the customs authorities of the Philippine Islands had disregarded all of the evidence before it and that the ruling of the Insular Collector of Customs was an abuse of authority which should be set aside, and granted the writ of habeas corpus and admitted the said Loo Gee into the Philippine Islands. From that decision the Collector of Customs appealed to this court and presented here a brief in support of his appeal. The appellee also presented a brief.

The appellee, in his petition for the writ of habeas corpus, alleged that there was no proof adduced before the board of special inquiry which showed or tended to show that he was not entitled to enter the Philippine Islands as the legitimate son of Loo Sing. He also alleges that the ex parte investigation held by the customs authorities at Honolulu, without giving him an opportunity to refute or explain the facts obtained by the said investigation, constituted an abuse of the authority and the power reposed in the said Collector of Customs. The rule that the judicial department of the Government will not interfere for the purpose of modifying or reversing the conclusions of the Collector of Customs in immigration cases, when his conclusions are based upon some evidence justifying them and when the parties have been given a fair and full hearing, is so well established that it seems unnecessary now to cite cases in support of it. In the present case, however, we have the question presented whether or not an immigrant is given a fair and full hearing when an investigation is held, concerning his right to enter, during his absence, without his knowledge or information and when he had no opportunity to hear and to cross-examine the witnesses presented against him. From the record and from the decision of the Collector of Customs it appears clearly that the report of the investigation made by the customs authorities in Honolulu influenced his conclusion in denying the right of Loo Gee to enter the Philippine Islands. Neither Loo Gee nor his alleged father were permitted to be present at Honolulu at the time of the investigation, nor were they permitted to refute any of the statements or conclusions made by the Collector of Customs, nor to introduce evidence contrary to the proof adduced at the said Honolulu investigation. There is much proof in the record given by the witnesses before the board of special inquiry which seems to refute the proof found in the report made by the customs authorities in Honolulu; but, inasmuch as the Collector of Customs, as well as the board of special inquiry, seems to have based his conclusions almost wholly upon the report from Honolulu, and inasmuch as the petitioners herein were not given an opportunity to see the witnesses whose declarations were taken at Honolulu and to cross-examine them and to explain their testimony or to refute it absolutely, we are of the opinion that a rehearing should be granted, upon the ground that the petitioners have not had a fair and full hearing and that the case should be remanded to the Court of First Instance of the city of Manila, with direction that an order be made returning the record to the Collector of Customs of the Philippine Islands, in order that he may take such steps in the premises as he may deem wise and necessary, to the end that the petitioners may have an opportunity to have a full free, and fair hearing. Without any findings as to costs, it is so ordered.

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

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