

7 Phil. 355

[ G.R. No. 3537. January 22, 1907 ]

**NGO-TI, PETITIONER AND APPELLEE, VS. W. MORGAN SHUSTER, COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.**

**D E C I S I O N**

**WILLARD, J.:**

On the 25th day of May 1906, Ngo-Ti presented to one of the judges of the Court of First Instance of Manila a petition for a writ of *habeas corpus*, alleging that the Chinaman Ngo-Yuc was unlawfully deprived of his liberty by the Collector of Customs of the Philippine Islands on the ground that Ngo-Yuc was a Chinese person not authorized to enter the Philippine Islands nor to remain therein. The petitioner alleged that the confinement was illegal since Ngo-Yuc had a right to remain in the Philippine Islands because he was a citizen thereof.

To the writ duly issued upon this petition, the Collector of Customs made a return on the 26th of May, 1906, in which he stated that Ngo-Yuc was an alien immigrant seeking to land at the port of Manila; that his right to land had been inquired into by the immigration officers at the port of Manila; that the decision of such officers was adverse to such right, and that in consequence of such decision said Ngo-Yuc had been ordered deported to the place from whence he came.

Testimony was taken which tended to show that Ngo-Yuc was the minor son of the petitioner, Ngo-Ti, and that Ngo-Ti was a Chinese merchant in the Philippines. The testimony also showed that upon the arrival of Ngo-Yuc at Manila an investigation was had by the customs officials; that afterwards a board of special inquiry was appointed which considered the matter; and that the board of special inquiry decided that he had no right to land.

The court below ordered the release of Ngo-Yuc on the ground that the question involved was one of citizenship; that the decision of the immigration officers upon this question was

not conclusive upon the courts, and that from the evidence it appeared that Ngo-Yuc had the status of a citizen of the Philippine Islands. From the judgment ordering the release of Ngo-Yuc the Attorney-General appealed to this court.

In the brief upon the hearing of this appeal, the appellee insists that the customs officers in Manila have no power to enforce the Chinese immigration laws, but that their execution is by law intrusted to the Secretary of Commerce and Labor or to the Secretary of the Treasury. This same contention was made in *In re Allen* (2 Phil. Rep., 630), and was decided adversely to the claim of the appellee in this case. Since that decision, Congress has passed the act of February 6, 1905, section 6 of which is as follows:

“That the immigration laws of the United States in force in the Philippine Islands shall be administered by the officers of the General Government thereof, designated by appropriate legislation of said Government, and all money collected under said laws as duty or head tax on alien immigrants coming into said Islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the Treasury of said Islands to be used and expended for the government to the benefit of said Islands.”

The second point raised by the appeal is that the decision of the immigration officers upon the question of citizenship is not conclusive or binding upon the courts, but that they have the authority to inquire into and determine that question for themselves.

In the case of *Rafferty vs. The Judge of the Court of First Instance of Cebu*,<sup>[1]</sup> decided December, 7, 1906 (4 Off. Gaz., 766), this court said:

“That courts of justice may in some cases take jurisdiction of a case involving the right of a Chinese person to remain in the Islands, we think is settled by the decisions of the Supreme Court of the United States.

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“If the immigration officers refuse to give the person interested any hearing at all upon his right to enter, or commit any other abuse of their powers, the courts of justice have the right to intervene.”

In the case at bar there is no allegation nor claim that the immigration officers did not give Ngo-Yuc an opportunity to be heard upon his right to enter the Islands, nor is there any claim that in passing upon his case they committed any other abuse of the powers conferred upon them by law. The case does not, therefore, fall within the judgments of the Supreme Court of the United States cited in the said case of Rafferty vs. The Judge of the Court of First Instance of Cebu.

The appellee discusses in his brief the question as to the right to an appeal from the decision of the Insular Collector. It is not necessary to pass upon this question, because Ngo-Yuc did not attempt to appeal from the order of the Collector, nor from the decision of the special board of inquiry.

The principal and important question, whether the decision of the administrative officers is final or not upon the question of citizenship has, we think, been decided in the case of the United States vs. Ju-Toy (198 U. S., 253). In that case the court said:

“It is established, as we have said, that the act purports to make the decision of the Department final, whatever the ground on which the right to enter the country is claimed, as well when it is citizenship as when it is domicile, and the belonging to a class excepted from the exclusion acts. \* \* \* If, for the purpose of argument, we assume that the fifth amendment applies to him, and that to deny entrance to a citizen is to deprive him of liberty, we, nevertheless, are of opinion that with regard to him due process of law does not require judicial trial.”

In the case of Pearson vs. Williams (202 U. S., 281) the courts said at page 286:

“But the matter which was before the mind of Congress presumably was that which had been before it on the former occasion, which had been the subject of judicial discussion (Lem Moon Sing vs. United States, 105 U. S., 538; Fok Yung Yo vs. United States, 185 U. S., 296), and which was not quite disposed of until the last term of this court. (United States vs. Ju-Toy, 198 U. S., 253.)”

According to this judgment, the decision of the administrative officers upon the question of citizenship is final where no abuse of authority of any kind on their part is alleged. There is no allegation of that character in this case.

The judgment of the court below is reversed, and it is ordered that Ngo-Yuc be remanded to the custody of the Insular Collector. No costs will be allowed in either court. After the expiration of twenty days judgment will be entered in accordance herewith and ten days thereafter the case remanded to the lower court for proper action. So ordered.

*Arellano, C. J., Torres, Mapa, Johnson, Carson, and Tracey, JJ., concur.*

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<sup>[1]</sup> Page 164, *supra*.

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