

5 Phil. 492

[ G.R. No. 2050. January 04, 1906 ]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. THE ROHILLA MARU,  
DEFENDANT AND APPELLANT.**

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

**WILLARD, J.:**

Seven Chinese laborers arrived in Manila Bay from Hongkong on December 3, 1903, on the *Rohilla Maru*. On the night of December 4 they were landed from this ship in bancas on the beach at Parafiaque, where they were arrested for a violation of the Chinese Exclusion Acts. A proceeding against the ship was commenced in the Court of Customs Appeals, and a judgment was therein entered on the 13th of February, 1904, forfeiting the ship to the United States, and ordering her sale. The agents of the ship appealed to this court.

We do not find it necessary to decide whether section 10 of the act of Congress of July 5, 1884 (23 Stat. L., 115), and section 9 of the act of Congress of the 13th of September, 1888 (25 Stat. L., 476), are both in force in these Islands, or whether the former is superseded by the latter, for we do not think that the evidence shows a violation of either section.

Section 10 is as follows:

“That every vessel whose master shall *knowingly* violate any of the provisions of this act shall be deemed forfeited to the United States, and shall be liable to seizure and condemnation in any district of the United States into which such vessel may enter, or in which she may be found.”

Section 9 of the act of September 13, 1888, is as follows:

“That the master of any vessel who shall knowingly bring within the United States on such vessels, and land, or attempt to land, or permit to be landed any Chinese laborer or other Chinese person, in contravention of the provisions of this act, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished with a fine of not less than five hundred dollars nor more than one thousand dollars, in the discretion of the court, for every Chinese laborer or other Chinese person so brought, and may also be imprisoned for a term of not less than one year, nor more than five years, in the discretion of the court.”

By the terms of each one of these sections it is seen that the master must knowingly do something in violation of the law. That these Chinese were brought onto the ship in Hongkong through the connivance of some of the crew, we think is proved. It is also proved that when they arrived in Manila they were placed in the bancas in which they were transported to the beach with the assistance of some of the crew, but there is no evidence in the case to show that the master had any knowledge of their presence on the ship or knew anything about their leaving the ship, or in any way assisted or permitted it. Six of these Chinese testified at the trial as witnesses for the Government. They said that while they were on the ship they saw no one and no one saw them; that the place in which they were was very dark; that they lived upon food and water which they bought at Hongkong.

That the captain may have been negligent in the performance of his duty is not sufficient to impose liability upon the ship. In order to impose such liability he must have known of the presence of these Chinamen. The court below evidently based its decision on the ground that the captain being in charge of the ship, there was a presumption of knowledge, and that this presumption was sufficient for conviction. We can not agree with this view of the law.

Nor is it sufficient that the evidence furnishes some suspicion that the captain may have known of this violation of the law; it must be proved beyond a reasonable doubt that he did know it. Nor can the fact that it is difficult to bring such knowledge home to the captain, and therefore the enforcement of the law may become impossible, be a sufficient reason for affirming this judgment. If the law had provided that the ship should be confiscated in case the master or *any one of his crew* assisted in landing a Chinaman contrary to law, the judgment would have to be affirmed.

The judgment of the court below is reversed, and after the expiration of twenty days

judgment should be entered in accordance herewith and the case remanded to the court below with directions to enter judgment in favor of the ship. No costs will be allowed in this court. So ordered.

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

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