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JUDICIAL REVIEW OF ADMINISTRATIVE ACTION (IN IMMIGRATION CASES) BY THE SUPREME COURT OF THE PHILIPPINE ISLANDS

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I. INTRODUCTION: To an intelligent understanding of the growth, development and importance of administrative law in the Philippine Islands, a knowledge of the fundamental structure of its government is necessary. Without, therefore, undertaking to discuss the nature of administrative law, the term being used in this rather brief report in its generally accepted meaning in this country, this introduction will cover a brief sketch of the nature, powers, and organization of the Philippine Government.

A. *Nature, powers, and organization.*—The Philippine Government is modeled after the Federal and State governments of the United States.[1] The Philippine Bill of Rights approved of and extended to the Philippine Islands the powers of a republican form of government modeled after that of the United States.[2] The triple division of powers is recognized and enforced by a distribution of the same among three independent departments, namely: the executive, the legislative, and the judicial.[3] The Philippine Legislature gave Filipino sanction to the idea by express incorporation of it in the administrative code.[4] The separation of powers is as complete as in most governments.[5] What is true in the Federal and State governments in regard to the doctrine of the delegation of powers is also true in the Philippine Government, the latter being a mere copy of the former. That, except when authorized by the Constitution,[6] no department can abdicate authority or escape responsibility by delegating any of its powers to another body, is a doctrine well established in the Philippines. Following, however, the practice of its parent governments, the Philippine Government has established an exception to the doctrine of non-delegation of powers. That powers not strictly legislative or judicial may be delegated to an administrative body is a fully established doctrine in the Philippines.

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1. U. S. v. Bull, 15 Phil. 7.
2. Severino v. G. G., 16 Phil. 366.
3. The Philippine Autonomy Act, secs. 12, 21, & 26.
4. Ad. Code, sec. 17.
5. U. S. v. Bull, 15 Phil. 7, 27.
6. The nearest approach to a Phil. Const. is the Philippine Autonomy Act.

The Philippine executive officers who come closest to exercising judicial functions are the Public Utility Commissioner, the Insular Auditor, the Insular Collector of Customs, and the Director of Labor. This paper will cover only the nature and extent of the administrative power of the Insular Collector of Customs,[7] and the scope of judicial review of their decisions.

The discussions will be in the following order: A. Doctrine of conclusive finality; B. Doctrine of judicial review:—(1) Abuse of authority—(a) Disregard of testimony; (b) Unsupported decision; (c) Denial of hearing; (2) Error of law.

II. JUDICIAL REVIEW OF ADMINISTRATIVE ACTION.

A. *Doctrine of conclusive finality.*—Hardly had the American scheme of government been transplanted into its newly acquired territory across the Pacific when the local supreme court was confronted with the problem of deciding a case[8] the outcome of which formed what may be called the starting point in the development of administrative law in the Philippines. Briefly, the facts of the case are as follows: Patterson, a British subject, arrived in Manila from abroad on the steamer Yuensang. Arrested by the Collector of Customs twenty-four hours after landing on the ground that he had reasonable grounds to believe Patterson guilty of having aided and abetted or incited an insurrection in the Philippines against the authority and sovereignty of the United States or against the government constituted by the United States therein, Patterson sued out a writ of habeas corpus. In a well written opinion but of doubtful authority, it was held that no writ should issue, the court announcing the doctrine that where a statute authorizes an executive officer to exclude persons whom he has reasonable grounds to believe guilty of certain acts or purposes,[9] *he is the sole and final judge of these facts and cannot be required to show reasonable grounds for his belief to a court of justice.* The decision pretty clearly shows that the majority of the court committed themselves to a doctrine of conclusive finality of administrative decision.

To ask a few questions would readily show the weakness of the decision, if not its fallacy. Could the Philippine Commission have made the finding of the Collector of Customs final? Did it make it final? What was the import of the words "reasonable

7. The immigration laws of the United States are enforced in the Philippines by the Insular Collector of Customs of said Islands. (In re Allen, 2 Phil. 630; Ngo-Ti v. Shuster, 7 Phil. 355; the Act of Congress of Feb. 6, 1905, provides, in part, that the United States immigration laws shall be administered in the Philippines by the officers of the general government thereof so designated.)
8. In re Patterson, 1 Phil. 93.
9. Act 265 of the Phil. Com. authorized the Col. of Customs to prevent the entrance into the country of persons from abroad whom he has reasonable grounds to believe guilty of having aided, abetted or instigated insurrection, or whom he suspects of coming to the Phil. with that purpose.

grounds?" How could it be shown that the collector exercised his discretion properly and not arbitrarily, when his action was beyond judicial review? Mr. Justice Willard, in concurring in the result of the decision but dissenting from the doctrine of conclusive finality, said: "Conceding that the Philippine Commission had the power to pass a law making the decision of the Collector of Customs final, the question still remains, Has it done so? The law does not say, 'if the collector believes,' 'if he is of the opinion,' 'if he has evidence satisfactory to himself,' nor does it use any similar phrase. Neither does it say in so many words that his decision shall be final as does the Act of Congress of 1894 relied upon by the Attorney-General."[10] To hold that his decision was final is to strike from the law the words, "reasonable grounds." These words seem, to me, to prescribe a standard of action; a standard which limits the jurisdiction of the administrative officer; and such being the case, he should not be allowed to determine his own jurisdiction. Under the construction of the majority, the Philippine Commission virtually said to the collectors: "You must act on reasonable grounds, but if you don't, no one can interfere with you."

It seems to me that the decision is clearly and palpably erroneous unless it can be explained that, in view of the temporary character of the legislation and of the emergency of the situation sought to be relieved, the majority of the court felt justified in so construing the law as to give unlimited discretion to the collector of customs. The abnormal conditions prevailing in some provinces of this new territory of the United States were known as a fact to the whole world. The Act, as a political measure, sought to prevent all classes of agitators, even citizens, from aggravating or extending the disturbances which still existed, much reduced, in certain parts of the Archipelago.

B. *Doctrine of judicial review recognized;* (1) *abuse of authority or of discretion.*—Four years after the decision in the In re Petterson announcing a doctrine of conclusive finality, the court recognized, for the first time, that in certain cases administrative action was subject to judicial review.[1] If the action was founded upon an abuse of discretion or of their powers, the court had jurisdiction of it. Even the question of citizenship was conclusively determined by the administrative officials, where there was no allegation and proof of abuse of authority of any kind.[2] Again where there was an

10. Ekiu v. U. S., 142 U. S. 651.
1. Rafferty v. Judge, 7 Phil. 164.
2. Ngo Ti v. Shuster, 7 Phil. 355.

allegation of an abuse of discretion and authority on the part of the customs officials in the proceedings for the admission of one who alleged citizenship, the court refused to review the administrative decision in question, there appearing no proof to sustain the alleged abuse of authority or of discretion.[3] In fine, abuse of authority on the part of the officers of the executive department of the government is the only basis upon which the courts will assume jurisdiction to review, revise, or reverse the decisions of that department.[4] In the same decision the court stated that an abuse of authority certainly exists: (a) When a person has been denied admission into the territory of the United States who does not belong to any of the excluded classes; and (b) When a person seeking admission has not been given a full, fair, and free hearing. •I may add that besides abuse of authority or of discretion, the court will review an administrative action to correct an erroneous ruling on law, although it took the local supreme court sometime before it settled down to this doctrine.

(a) Disregard of testimony.—

To deny a person admission who does not belong to the excluded classes constitutes an abuse of authority. But in the case of Jao Igco v. Shuster,[5] the supreme court held that in denying admission to the petitioner on the ground that he was not the son of a certain resident Chinese merchant, the customs authorities did not abuse authority. Whether he was the son or not, involved a question of pure fact, susceptible of proof, and hence, the court properly held the administrative finding thereon was final. But the court, in dictum, added that "the mere fact that the immigration officers did not accept certain sworn statements presented by the petitioner as true would not of itself justify the court in taking jurisdiction of the cause on the ground that that was an abuse of authority." In this case the court intimated that the customs authorities may disregard sworn statements without any reason whatsoever. However, in a subsequent case,[6] the court found some justification for the administrative officers' disregarding and disbelieving the testimonies presented. The court said "said conflict justified the board of special inquiry and the insular collector of customs in disregarding their testimony and disbelieving the same." But in a more recent case,[7] the court in reversing the decision of the immigration officers, seemed to

3. 14 Phil. 235.
4. Chang v. Coll. Customs, 23 Phil. 614.
5. 10 Phil. 448.
6. Chua Yeng Hin v. Coll. Customs, 28 Phil. 591.
7. Dy Keng v. Coll. Customs, 40 Phil. 118.

intimate that to disregard the testimony of witnesses there must be some reason therefor. In this case, the denial was based solely upon the ground that "from his personal appearance he seemed to be between twenty-two and twenty-five years of age; on the contrary, five witnesses were presented to the board of special inquiry; that each of whom, including the petitioner and his father, swore positively and apparently without mental reservation or attempted evasion, that the petitioner was about twenty years of age. No proof whatever was adduced even tending to dispute the positive statements of each of said witnesses." The last case on the point was decided in 1921.[8] The court in effect held that immigration officers may disbelieve the declaration of witnesses, but when they do disbelieve the witnesses, they must be able to give some good reasons therefor. Briefly, the facts of the case are as follows: The department of customs denied the applicant the right to enter the Philippines upon the sole ground that his name was Eng Wing while that of his father was Sam Tow. Sam Tow swore positively during the hearing before the board of special inquiry that, as a Chinaman, he was at liberty to give his son whatever name he desired. The evidence thus taken was not disputed. In other words, there was not a scintilla of evidence in the record that even remotely discredited the testimony of Eng Wing and his two parents.

Summary of cases under abuse of authority in disregarding the testimony of petitioner and of his witnesses: In the case of Jao Igco v. Shuster, the court, in dictum, stated that immigration officers may properly disregard the sworn statements of witnesses without any reason whatsoever. In the case of Chua Yeng Hin v. Collector of Customs, the court found some justification for the immigration officers' disregarding and disbelieving the testimonies offered. In the case of Dy Keng v. Collector of Customs, the court seemed to imply that for the immigration officers to disregard the testimony of witnesses, there mus be some reason therefor. And in the last case, the Sam Mow Tow case, the court boldly announced the rule that although the immigration officers may disbelieve the declaration of witnesses, yet when they do so, they must be able to give some good reasons therefor. It seems to me pretty clear that the tendency is for the court to limit the discretion of immigration officers in this matter so as to conform to due process of law.

(b) Unsupported decision.—

In the preceding paragraphs have been discussed cases involving abuse of authority in disregarding sworn statements of

8. Sam Mow Tow v. Aldanese, 42 Phil. 217.
9. 22 Phil. 598; 27 Phil. 521.

witnesses. An abuse of authority is also present when a decision is with absolutely nothing to support it? Such a decision is a nullity. However, the court held in the case of Tan Beko v. Coll. of Customs, [10] that a decision based on the appearance of the applicant is not without evidence to support it. The main question presented by the appellant was that the board of special inquiry rendered a decision adverse to him without any evidence before it to sustain such a decision. No witnesses were sworn before the board on behalf of the government or against the claim of the petitioner. On the contrary, the petitioner presented witnesses who testified the applicant was a minor less than twenty one years of age. The board, however, made a thorough examination of the person of the petitioner and, *after such examination, came to the conclusion that he was not a minor but was a person of full age.* The court held that there was sufficient evidence to sustain the administrative decision. But in a case[1] decided about six years later, the court, without expressly overruling the Tan Beko decision, practically did away with it. In this case, as in the Tan Beko case, there was testimonial evidence for the applicant and nothing but examination of the appearance of the applicant for the government. In both cases, the record did not recite the particular facts which induced the immigration officers to believe that the person examined was of a particular age. But contrary to the ruling in the former case, the court held that "while the courts have held that the age of persons may be determined by their personal appearance, yet at the same time they have always insisted when the question was raised, that the deciding officer or court should cause the record to show, not by a general statement that the 'personal appearance' induced the officer or court to believe that the person in question was of a particular age but the particular fact or facts concerning the 'personal appearance' which led said officer or court to believe that his age was as said officer or court stated." This again shows the same tendency to limit the discretionary power of immigration officers to a point consistent with due process of law. It is clear that without this limitation it would be easy for the immigration officers to abuse their authority or discretion by acting in an arbitrary manner.

(c) Denial of hearing.—

Another source of abuse of authority is the denial of a full, fair and free hearing. Unfair hearing is no hearing at all.[2] This was the holding in the case of Bayani v. Collector of Cus-

10. 26 Phil. 254.
1. Dy Keng v. Coll. Customs, 40 Phil. 118.
2. 37 Phil. 468.

toms, wherein the court, in part, said: " * * * it appears from the record that the hearing was in great part made up of leading and misleading questions and untrue statements, calculated to confuse the witnesses and not adopted to discover the real merits of the petitioner's right; that the board failed to present questions and refused to permit the attorney for the appellant to present questions which would bring to light the real, material and important facts justifying his right to enter the Philippines." Clearly there was no hearing at all. Although summary in nature, proceedings before the board of special inquiry are judicial in character, and the person whose rights are inquired into by it are entitled to a full, free and fair hearing just as in other cases where the rights of individuals are being determined. "The essential thing in such investigation," the court concluded, "is that there shall have been an honest effort to arrive at the truth by methods sufficiently fair and reasonable to amount to due process of law."

(2) *Error of law.*—The early Philippine cases showed that the local supreme court held administrative decisions final even on questions of law, in the absence of allegation and proof of abuse of authority. This ruling seems to be in accordance with the first pronouncement of the court on the doctrine of conclusive finality. Thus, in the case of Lo Po v. McCoy,[3] the facts are as follows: The contention of the petitioner in the lower court was that the Act of Congress of March 3, 1903, did not apply to Chinese persons; the lower court held that the said Act of Congress did apply to Chinese aliens, but that it did not apply to the petitioner for the reason that he had resided in the Islands for many years as a resident of the same and was therefore not an alien under the Act in question. The supreme court considered as final and conclusive the finding of the customs officials that the petitioner was an alien under the Act of Congress of March 3, 1903. In this case the question to be decided was really one of law,—whether the circumstances of the petitioner placed him under the cover of the law. Again in the case of Lorenzo v. McCoy,[4] the court held the finding of the board of special inquiry and the collector of customs that the applicant was, under the circumstances, not a citizen of the Philippines, final. In this case, it was proven that the petitioner was born in the Philippines, of Filipina mother and Chinese father, but that he left the Islands for China when but fifteen years old, where he resided continuously until he was thirty-four. It did not appear that he intended to return to the Philippines until the

3. 10 Phil. 442.
4. 15 Phil. 559.

time when he did actually return. The collector found that, if the applicant had ever been a citizen of the Philippines, he had lost his citizenship by reason of his long residence in China. Clearly, there were presented two questions of law: (1) Whether under the circumstances he ever had been a Philippine citizen? The trial court said, Yes. (2) Whether under the circumstances, he had lost his Philippine citizenship? The trial court said, No. Yet the supreme court, in reversing the decision of the trial court, held that there being no allegation and proof of abuse of authority, the administrative decision was beyond judicial review.

Two years later found the court retracing its steps and modifying, if not everruling, the doctrine laid down in the last two cases. The case of Vaño v. Collector of Customs[5] presented the same question as the Lorenzo v. McCoy case. V. was born in the Philippines, and had lived therein since his birth except for about six months when his father, by reason of ill health, took him and his two sisters to China. His father died in China shortly after their arrival there. He, together with other members of the family, immediately returned to the Philippines. Perhaps, this fact is quite important: when he left the Islands it was with the expressed intention of returning. The court held that under the foregoing facts, V was a citizen of the Philippine Islands and entitled to remain therein; and it was an abuse of authority on the part of the collector of customs to exclude him therefrom. In this case, the board of special inquiry and the collector of customs found that he was a Chinese person and not a citizen of the Philippines. The court did not consider this finding conclusive and final but entered into the merits of the case and arrived at a different conclusion. I think the two cases can be reconciled. Here, there was a clearly and palpably erroneous decision—an error of law. Upon the undisputed facts, there was no escape from the conclusion that he was a citizen of the Philippine Islands. In the Lorenzo V. McCoy case, there was no expressed intention to return. The facts were not clear so that a decision either way seemed supportable. There is a distinction all right but that does not change the error from one of law to one of fact. The court seems to be finding its way to limit administratitve discretion where a question of citizenship is involved.

Where there is a misapplication of a clear provision of law to undisputed facts, the court will review administrative finding.[6] In this case, an examination of the proof adduced before

5. 23 Phil. 480.
6. Tan Chin Hin v. Coll. Customs, 27 Phil. 521, dictum; Lee Wing Seng v. Coll, Customs, 30 Phil. 363.

the customs authorities showed, beyond question, that the applicant was born in the Philippines as alleged. He was, therefore, a citizen thereof and had the right to enter. There was no proof whatever disputing the fact that he was born in the Philippines. There being a clear misapplication of the law of undisputed facts, the court, on that ground alone, properly took jurisdiction of the matter. The latest case involving a question of law was that of Tan Boc v. Collector of Customs.[7] The court, in passing upon the erroneous holding of the immigration officers, held that "the petitioner did not lose his right to enter the Philippines as a minor child of a resident Chinese merchant by the fact that the latter died before the holding of the investigation, when it appeared from the record that said death occurred after the arrival of the petitioner in the Islands.

Summary of cases under judicial review of errors of law: These cases show that from a doctrine of conclusive finality in findings involving questions of law, where no abuse of authority is alleged and proven, the court has gradually shifted to one of judicial review thereof whenever a clear case of an erroneous interpretation of the law presents itself or where a clear provision of the law is misapplied to undisputed facts.

III. CONCLUSION.

A. *Scope of judicial review at present.*—A review of the cases decided from 1902 to 1925 has revealed an interesting development in the court's attitude toward the scope and extent of the powers of that branch of the executive department in charge of the execution in the Philippines of the immigration laws of the United States. An attempt has been made in this report to show that starting from the doctrine of conclusive finality of administrative action, the court has gradually narrowed and limited that broad doctrine to one consistent with due process of law and the principle of the separation of powers.

It is clear, from a study of these cases, that the supreme court of the Philippine Islands will review decisions of the immigration officers only in the following cases: (1) Where there is an abuse of authority, either because (a) the immigration officers have disregarded sworn statements and testimonies without any reason whatever, or (b) where a decision is with absolutely nothing to support it, or (c) where there is a denial of a full, fair and free hearing; and (2) where a question of law is involved the tendency is to accord judicial review, but it is not very clear whether in doubtful cases the court will disturb the interpretation of the law given by the immigration officers.

7. 47 Phil. 691.