

THIRD DIVISION

[G.R. No. 166199, April 24, 2009]

**THE SECRETARY OF JUSTICE, THE EXECUTIVE SECRETARY AND
THE BOARD OF COMMISSIONERS OF THE BUREAU OF
IMMIGRATION, PETITIONERS, VS. CHRISTOPHER KORUGA,
RESPONDENT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated September 14, 2004 and the Resolution^[2] dated November 24, 2004 of the Court of Appeals (CA) in CA-G.R. SP No. 76578. The assailed Decision set aside the Resolution dated April 1, 2003 of the Secretary of the Department of Justice (DOJ) and the Judgment dated February 11, 2002 of the Board of Commissioners (BOC) of the Bureau of Immigration (BI), and dismissed the deportation case filed against Christopher Koruga (respondent), an American national, for violation of Section 37(a)(4) of Commonwealth Act No. 613, as amended, otherwise known as the Philippine Immigration Act of 1940; while the assailed Resolution denied petitioners' Motion for Reconsideration.

The factual background of the case is as follows:

Sometime in August 2001, then BI Commissioner Andrea Domingo received an anonymous letter^[3] requesting the deportation of respondent as an undesirable alien for having been found guilty of Violation of the Uniform Controlled Substances Act in the State of Washington, United States of America (USA) for attempted possession of cocaine sometime in 1983.

On the basis of a Summary of Information,^[4] the Commissioner issued Mission Order No. ADD-01-162^[5] on September 13, 2001 directing Police Superintendent (P/Supt.) Lino G. Caligasan, Chief of the Intelligence Mission and any available BI Special Operations Team Member to conduct verification/ validation of the admission status and activities of respondent and effect his immediate arrest if he is found to have violated the Philippine Immigration Act of 1940, as amended.

On September 17, 2001, respondent was arrested and charged before the Board of Special Inquiry (BSI) for violation of Section 37(a)(4) of the Philippine Immigration Act of 1940, as amended. The case was docketed as BSI-D.C. No. ADD-01-126. The Charge Sheet reads:

On September 17, 2001, at about 10:00 A.M., respondent was arrested by Intelligence operatives at his residence, located at 1001 MARBELLA CONDOMINIUM II, Roxas Boulevard, Malate, Manila, pursuant to Mission Order No. ADD-01-162;

That respondent was convicted and/or sentenced for Uniform Controlled Substance Act in connection with his being Drug Trafficker and/or Courier of prohibited drugs in the State of Washington, United States of America, thus, making him an undesirable alien and/or a public burden in violation of Sec. 37(4) [sic] of the Philippine Immigration Act of 1940, as amended.

CONTRARY TO LAW.^[6]

On September 28, 2001, after filing a Petition for Bail^[7] and Supplemental Petition for Bail,^[8] respondent was granted bail and provisionally released from the custody of the BI.^[9]

Following the submission of respondent's Memorandum^[10] and the BI Special Prosecutor's Memorandum,^[11] the BOC rendered a Judgment^[12] dated February 11, 2002 ordering the deportation of respondent under Section 37(a)(4) of the Philippine Immigration Act of 1940, as amended.

On February 26, 2002, respondent filed a Motion for Reconsideration,^[13] but it was denied by the BOC in a Resolution dated March 19, 2002.

Unaware that the BOC already rendered its Resolution dated March 19, 2002, respondent filed on April 2, 2002, a Manifestation and Notice of Appeal *Ex Abundanti Cautelam*^[14] with the Office of the President, which referred^[15] the appeal to the DOJ.

On April 1, 2003, then DOJ Secretary Simeon A. Datumanong rendered a Resolution^[16] dismissing the appeal. On April 15, 2003, respondent filed a Motion for Reconsideration^[17] which he subsequently withdrew^[18] on April 23, 2003.

On April 24, 2003, respondent filed a Petition for *Certiorari* and Prohibition^[19]

with the CA, docketed as CA-G.R. SP No. 76578, seeking to set aside the Resolution dated April 1, 2003 of the DOJ Secretary and the Judgment dated February 11, 2002 of the BOC.

On September 14, 2004, the CA rendered a Decision^[20] setting aside the Resolution dated April 1, 2003 of the DOJ Secretary and the Judgment dated February 11, 2002 of the BOC and dismissing the deportation case filed against respondent. The CA held that there was no valid and legal ground for the deportation of respondent since there was no violation of Section 37(a)(4) of the Philippine Immigration Act of 1940, as amended, because respondent was not convicted or sentenced for a violation of the law on prohibited drugs since the U.S. Court dismissed the case for violation of the Uniform Controlled Substances Act in the State of Washington, USA filed against respondent; that petitioners further failed to present or attach to their pleadings any document which would support their allegations that respondent entered into a plea bargain with the U.S. Prosecutor for deferred sentence nor did they attach to the record the alleged order or judgment of the U.S. Court which would show the conviction of respondent for violation of the prohibited drugs law in

the USA; that even if respondent was convicted and sentenced for the alleged offense, his deportation under Section 37(a)(4) is improper, since the prohibited drugs law referred to therein refers not to a foreign drugs law but to the Philippine drugs law, then Republic Act No. 6425 or the "Dangerous Drugs Act of 1972"; that although the BOC is clothed with exclusive authority to decide as to the right of a foreigner to enter the country, still, such executive officers must act within the scope of their authority or their decision is a nullity.

Petitioners' Motion for Reconsideration^[21] was denied by the CA in its presently assailed Resolution^[22] dated November 24, 2004.

Hence, the present petition on the following grounds:

- I. THE COURT OF APPEALS GRAVELY ERRED IN TAKING COGNIZANCE OF THE SUBJECT CASE WHICH FALLS UNDER THE EXCLUSIVE PREROGATIVE OF THE EXECUTIVE BRANCH OF THE GOVERNMENT.
- II. ASSUMING ARGUENDO THAT IT COULD TAKE COGNIZANCE OVER THE CASE, THE COURT OF APPEALS GRAVELY ERRED IN FINDING AN ABUSE OF DISCRETION ON THE PART OF HEREIN PETITIONERS.
- III. THE COURT OF APPEALS ERRED IN FINDING THAT THE CHARGES AGAINST THE HEREIN RESPONDENT WERE DROPPED.
- IV. THE COURT OF APPEALS ERRED IN HOLDING THAT PRIOR CONVICTION IS REQUIRED BEFORE RESPONDENT COULD BE DEPORTED.^[23]

Petitioners contend that the BI has exclusive authority in deportation proceedings and no other tribunal is at liberty to reexamine or to controvert the sufficiency of the evidence presented therein; that there was no grave abuse of discretion on the part of petitioners when they sought the deportation of respondent since he was convicted by the Supreme Court of the State of Washington for attempted Violation of the Uniform Controlled Substances Act and underwent probation in lieu of the imposition of sentence; that the dismissal of the charge against respondent was only with respect to penalties and liabilities, obtained after fulfilling the conditions for his probation, and was not an acquittal from the criminal case charged against him; that there is a valid basis to declare respondent's undesirability and effect his deportation since respondent has admitted guilt of his involvement in a drug-related case.

On the other hand, respondent submits that the proceedings against him reek of persecution; that the CA did not commit any error of law; that all the arguments raised in the present petition are mere rehashes of arguments raised before and ruled upon by the CA; and that, even assuming that Section 37(a)(4) of the Philippine Immigration Act of 1940 does not apply, there is no reason, whether compelling or slight, to deport respondent.

There are two issues for resolution: (1) whether the exclusive authority of the BOC over deportation proceedings bars judicial review, and (2) whether there is a valid and legal ground for the deportation of respondent.

The Court resolves the first issue in the negative.

It is beyond cavil that the BI has the exclusive authority and jurisdiction to try and hear cases against an alleged alien, and that the BOC has jurisdiction over deportation proceedings.^[24] Nonetheless, Article VIII, Section 1^[25] of the Constitution has vested power of judicial review in the Supreme Court and the lower courts such as the CA, as established by law. Although the courts are without power to directly decide matters over which full discretionary authority has been delegated to the legislative or executive branch of the government and are not empowered to execute absolutely their own judgment from that of Congress or of the President,^[26] the Court may look into and resolve questions of whether or not such judgment has been made with grave abuse of discretion, when the act of the legislative or executive department is contrary to the Constitution, the law or jurisprudence, or when executed whimsically, capriciously or arbitrarily out of malice, ill will or personal bias.^[27]

In *Domingo v. Scheer*,^[28] the Court set aside the Summary Deportation Order of the BOC over an alien for having been issued with grave abuse of discretion in violation of the alien's constitutional and statutory rights to due process, since the BOC ordered the deportation of the alien without conducting summary deportation proceedings and without affording the alien the right to be heard on his motion for reconsideration and adduce evidence thereon.

In *House of Sara Lee v. Rey*,^[29] the Court held that while, as a general rule, the factual findings of administrative agencies are not subject to review, it is equally established that the Court will not uphold erroneous conclusions which are contrary to evidence, because the agency *a quo*, for that reason, would be guilty of a grave abuse of discretion.

When acts or omissions of a quasi-judicial agency are involved, a petition for *certiorari* or prohibition may be filed in the CA as provided by law or by the Rules of Court, as amended.^[30] Clearly, the filing by respondent of a petition for *certiorari* and prohibition before the CA to assail the order of deportation on the ground of grave abuse of discretion is permitted.

This brings us to the second issue.

The settled rule is that the entry or stay of aliens in the Philippines is merely a privilege and a matter of grace; such privilege is not absolute or permanent and may be revoked. However, aliens may be expelled or deported from the Philippines only on grounds and in the manner provided for by the Constitution, the Philippine Immigration Act of 1940, as amended, and administrative issuances pursuant thereto.^[31]

Respondent was charged with violation of Section 37(a)(4) of the Philippine Immigration Act of 1940, as amended, which provides:

Sec. 37. (a) The following aliens shall be arrested upon the warrant of the Commissioner of Immigration or of any other officer designated by him for the purpose and deported upon the warrant of the Commissioner of Immigration after a determination by the Board of Commissioners of

the existence of the ground for deportation as charged against the alien.

x x x x

(4) Any alien who is convicted and sentenced for a violation of **the** law governing prohibited drugs;

x x x x (Emphasis supplied)

Respondent contends that the use of the definite article "the" immediately preceding the phrase "law on prohibited drugs" emphasizes not just any prohibited drugs law but the law applicable in this jurisdiction, at that time, the Dangerous Drugs Act of 1972.^[32]

The Court disagrees.

The general rule in construing words and phrases used in a statute is that in the absence of legislative intent to the contrary, they should be given their plain, ordinary, and common usage meaning.^[33] However, a literal interpretation of a statute is to be rejected if it will operate unjustly, lead to absurd results, or contract the evident meaning of the statute taken as a whole.^[34] After all, statutes should receive a sensible construction, such as will give effect to the legislative intention and so as to avoid an unjust or an absurd conclusion.^[35] Indeed, courts are not to give words meanings that would lead to absurd or unreasonable consequences.^[36]

Were the Court to follow the letter of Section 37(a)(4) and make it applicable only to convictions under the Philippine prohibited drugs law, the Court will in effect be paving the way to an absurd situation whereby aliens convicted of foreign prohibited drugs laws may be allowed to enter the country to the detriment of the public health and safety of its citizens. It suggests a double standard of treatment where only aliens convicted of Philippine prohibited drugs law would be deported, while aliens convicted of foreign prohibited drugs laws would be allowed entry in the country. The Court must emphatically reject such interpretation of the law. Certainly, such a situation was not envisioned by the framers of the law, for to do so would be contrary to reason and therefore, absurd. Over time, courts have recognized with almost pedantic adherence that what is contrary to reason is not allowed in law.

Indubitably, Section 37(a)(4) should be given a reasonable interpretation, not one which defeats the very purpose for which the law was passed. This Court has, in many cases involving the construction of statutes, always cautioned against narrowly interpreting a statute as to defeat the purpose of the legislator and stressed that it is of the essence of judicial duty to construe statutes so as to avoid such a deplorable result of injustice or absurdity, and that therefore a literal interpretation is to be rejected if it would be unjust or lead to absurd results.^[37]

Moreover, since Section 37(a)(4) makes no distinction between a foreign prohibited drugs law and the Philippine prohibited drugs law, neither should this Court. *Ubi lex non distinguit nec nos distinguere debemos.*^[38] Thus, Section 37(a)(4) should apply to those convicted of all prohibited drugs laws, whether local or foreign.

There is no dispute that respondent was convicted of Violation of the Uniform