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SECOND DIVISION

[G.R. No. L-28082. June 28, 1974]

COMMISSIONER OF IMMIGRATION and **CAPTAIN DELFIN MACALINAO,** CIS, PC, *petitioners, vs.* **JUAN GARCIA,** *respondent.*

SYLLABUS

1. **POLITICAL LAW; IMMIGRATION; BOARD OF SPECIAL INQUIRY; FINALITY OF ITS DECISION WAS *OBITER DICTUM* IN FERNANDEZ CASE.**— One ground relied upon by the Court of Appeals in granting the petition for *habeas corpus* is the pronouncement of this Court in the 1964 bail incident (Commissioner of Immigration *vs.* Fernandez). It was intimated in that case that it was improper for the new Board of Commissioners to have set aside the decision of the Board of Special Inquiry after the two Deputy Commissioners had "noted" that decision and, thereby, affirmed it. What this Court said in the bail incident regarding the finality of the decision of the Board of Special Inquiry was an *obiter dictum*. The *ratio decidendi* of the decision in the bail incident, which was a *certiorari* and prohibition case, was that the Court of Appeals did not "abuse, much less gravely abuse its discretion" in granting bail to Teban Caoile. Hence, *certiorari* did not lie. The finality of the decision of the Board of Special Inquiry was not the primary issue in the bail incident. It was the Court of Appeals that was called upon to rule first on that issue in the light of the evidence presented in the trial court. That issue was not foreclosed by the decision in the bail incident.

2. **ID.; ID.; PHILIPPINE CITIZENSHIP NOT HAVING BEEN PROVED, PETITION FOR *HABEAS CORPUS* SHOULD NOT HAVE BEEN GRANTED.**— Pursuant to the directive of the Secretary of Justice, who was acting in the public interest, and in strict conformity with the Immigration Law, the Board of Commissioners reversed the decision of the Board of Inquiry and ruled that Teban Caoile had not established his Philippine citizenship. That decision of the Board of Commissioners also negated the supposed approval, by Deputy Commissioners De la Rosa and Talabis, of the decision of the Board of Special Inquiry on Teban Caoile's citizenship.

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Another controlling fact is that, during the trial, the ruling of the Board of Commissioners was fortified, if not rendered conclusive, by the testimony of Antonio Caoile that he is not the father of Teban Caoile. Those ultimate facts are undisputed. This Court holds that, under those facts, the Court of Appeals erred in concluding that Teban Caoile has been illegally detained and that the petition for *habeas corpus* should be granted.

3. **ID.; ID.; BOARD OF COMMISSIONERS; DECISION THEREOF PREVAILS OVER THAT OF BOARD OF SPECIAL INQUIRY.—** The decisive issue is whether the ruling of the Board of Commissioners, as strengthened by Antonio Caoile's testimony, should prevail over the decision of the Board of Special Inquiry which was "noted" by Deputy Commissioner De la Rosa and Talabis but disapproved by Commissioner Galang. The first Board of Commissioners did not meet collectively to discuss and deliberate on the decision of the Board of Special Inquiry. Its action was set aside by Memorandum Order No. 9 of the Secretary of Justice. Individual action by the members of the Board of Commissioners renders nugatory the purpose of its constitution as a board (Arrocha *vs.* Vivo). The later Board of Commissioners, headed by the appellant, acted on the hypothesis that the documentation supporting Teban Caoile's alleged Philippine citizenship was fraudulent and manufactured. That conclusion was confirmed by the testimony of Antonio Caoile, who, at the risk of being indicted for perjury, denied any paternal relationship to Teban Caoile. His testimony implied that a monstrous deception was practiced upon the immigration authorities (See De la Cruz *vs.* Collector of Customs, 26 Phil. 270; Macalayac *vs.* Collector of Customs, 61 Phil. 50). The foundation of Teban Caoile's assertion of Philippine citizenship is his representation that he is Antonio Caoile's son. That foundation collapsed when Antonio Caoile revealed that he could not have been the father of Teban Caoile. His revelation belied Teban Caoile's documentation of Philippine citizenship and unmasked it as an imposition. "When a party resorts to falsehood or fraud in order to strengthen his evidence, it is presumed that he knows perfectly well that his cause is groundless" (Moran's Comments on the Rules of Court, 1970 Ed. 42 citing De Leon *vs.* Juyco, 73 Phil. 588; Wigmore on Evidence, 566-8; Gonzales *vs.* Mauricio, 53 Phil. 728). In view of the foregoing considerations, this Court holds that the decision of the Board of Commissioners, which was confirmed by the lower court, should be upheld.

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4. **REMEDIAL LAW; COURT OF APPEALS; JURISDICTION THEREOF OVER APPEAL INVOLVING QUESTION OF FACT AND LAW.**— The jurisdiction of the Court of Appeals to entertain the appeal is a matter that is already *res judicata*. This Court ruled that, inasmuch as factual and legal questions were involved, the Court of Appeals had jurisdiction over the appeal (Commissioner of Immigration *vs.* Fernandez).

5. **ID.; SUPREME COURT; JURISDICTION THEREOF OVER QUESTION RELATING TO COURT OF APPEALS' CONCLUSION DRAWN FROM UNDISPUTED FACTS.**— When the facts are undisputed, then the question of whether or not the conclusion drawn therefrom by the Court of Appeals is correct is a question of law which this Court has jurisdiction to resolve (Cunanan *vs.* Lazatin, 74 Phil. 719; Joaquin *vs.* Navarro, 93 Phil. 257, 270).

6. **EVIDENCE; WEIGHT AND CREDIBILITY; REPORT AND DECISION OF INVESTIGATING UNIT IN INSTANT CASE ARE DISCARDED IN VIEW OF GRAVE DISCREPANCIES.**— The report of the investigating Unit of the Office of the Secretary of Justice, when juxtaposed with the decision of the Board of Special Inquiry No. 1, exhibits grave discrepancies which impair its probative value. The report mentions three (3) alleged sons of Antonio Caoile, as having arrived in Manila from Hongkong in 1961, namely, Teban, Santos and Jose. On the other hand, in the decision it is stated that four (4) sons of Antonio Caoile sought admission in 1961. Their names are Teban, Santos, *Vicente* and *Felipe*. The fifth son, Jose, "was delayed in coming over to this country". The report pinpoints Chinkiang, Fukien as the birthplace of the three sons, whereas, the decision indicates Chi Bi, Amoy, as their birthplace. It is averred in the report that Antonio Caoile supposedly return to the Philippines from China in 1937, whereas in the decision, it is implied that he was still in China in 1938 because he cohabited with his Chinese wife up to that year. So, the report, far from confirming *in toto* the decision, contradicts it on some vital points. Those inconsistencies destroy the probative value of the decision and the report. They cancel each other. After reading them, one is at a loss as to the truth of certain details. The report did not improve Teban Caoile's case. It became worse. The unavoidable conclusion is that the report and the decision should be discarded. Their fabricated character becomes apparent because of their discrepancies. They appear to be worthless when viewed in relation to Antonio Caoile's testimony that he is not the father of Teban Caoile.

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DECISION

AQUINO, *J.:*

The Commissioner of Immigration and Captain Delfin Macalinao of the Philippine Constabulary Criminal Investigation Service appealed from the decision of the Court of Appeals, granting the writ of *habeas corpus* for the release of Teban Caoile, making permanent his provisional liberty and nullifying the warrant of exclusion issued by the Commissioner of June 23, 1962 (Garcia *vs.* Vivo, CA-G.R. No. 33826-R, September 8, 1967).

A chronological recital of the developments in this case as found in the decision, the stipulation of facts and the briefs, will show whether the appeal is justified.

Teban Caoile, with his three brothers, arrived at the port of Manila on June 7, 1961. He applied for admission as a Philippine citizen under his documentation issued for that purpose by the Philippine Consulate General at Hongkong.

After hearing, the Board of Special Inquiry rendered a decision dated June 23, 1961, allowing his admission on the assumption that he was the son of Antonio Caoile of Urdaneta, Pangasinan who was allegedly born on July 30, 1913 as the illegitimate child of Maria Caoile and a Chinaman. According to that decision, Antonio Caoile was brought to China by his Chinese father. In China he married a Chinese woman named Ong Siu Ty. Teban Caoile, who was born on November 4, 1932, was one of their five children. The Board of Special Inquiry said:

"Blood tests in Hongkong established possibility of relationship between these applicants and their claimant-father. In his income tax returns for the years 1953, 1958, 1959 and 1960, Antonio Caoile reported the correct names and dates of births of his five children and also mentioned the fact that his wife, Ong Siu Ty, died in China. It may be worth noting that the first-mentioned income tax return, the 1953 report, was made about eight years before the present application for admission into the country. There is also on file a statutory declaration made in Hongkong by one Chan Wah Hing, a school-mate of the Caoile children in China, who affirms that the latter were already known in China to be the children of Antonio Caoile who was then residing in the Philippines.

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"All the foregoing evidence, taken together with the straight-forward testimonies of the applicants and the claimant-father, are believed sufficient upon which to base the conclusion that the herein applicants are really the children of Antonio Caoile and, as such, they are considered Philippine citizens under the provisions of paragraph (3), Section 1, Article IV of the Constitution." (Annex "C" of Petitioners' Brief).

On July 7, 1961 the Board of Commissioners of Immigration took the following action on the decision of the Board of Special Inquiry: Commissioner Emilio L. Galang voted for the exclusion of Teban Caoile and his brothers, while Deputy Commissioners Francisco de la Rosa and Felix Talabis simply wrote the word "noted" and, below that ambiguous word, the two affixed their signatures. The significance of that equivocal action is a controverted point in this case.

On July 10, 1961 the Bureau of Immigration issued to Teban Caoile Identification Certificate No. 15648 which stated *inter alia* that "Teban Caoile, male, 28 years old, single, whose picture and fingerprint are affixed hereto, was born in Amoy, Fukien, China on November 4, 1932, ex CPA plane on June 7, 1961, was admitted as citizen of the Philippines as per decision of the Board of Special Inquiry dated June 23, 1961, duly affirmed by the majority of the members of the Board of Commissioners, I. C. No. 61-1881-C" (sic).

Thereafter, Teban Caoile registered as a voter, obtained a Philippine passport, paid residence and income taxes, worked in the Avenue Electrical Supply Company (Avesco) and became a member of the Social Security System.

On January 24, 1962 the Secretary of Justice, acting in the public interest, pursuant to Section 79 (C) of the Revised Administrative Code, issued Memorandum Order No. 9. In that order, he decreed that, in view of the fact that "for the past several years the Board of Commissioners of Immigration *has not met collectively* to discuss and deliberate on cases coming before it", "all decisions purporting to have been rendered by the Board of Commissioners on appeal from or on review *motu proprio* of, decisions of the Boards of Special Inquiry" were "set aside."

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The Secretary directed the Board of Commissioners to review "all decisions of the Board of Special Inquiry admitting entry of aliens into this country and give preference to all cases where entry has been permitted on the ground that the entrant is a citizen of the Philippines." He advised the Board to apply the rule that the alien has the *onus probandi* of establishing that he is not subject to exclusion and that, since "citizenship is a status of privilege, power and honor of inestimable value," any doubt concerning its grant "should be resolved in favor of the Government and against the claimant" (Annex E of Petitioners' Brief; Arocha *vs.* Vivo, L-24844, October 26, 1967, 21 SCRA 532; Neria *vs.* Commissioner of Immigration, L-24800, May 27, 1968, 23 SCRA 806).

Memorandum Order No. 9 was not touched upon in respondent's brief and in the decision of the Court of Appeals. That order has a crucial bearing in this case.

Exactly one year from the date when the Board of Special Inquiry rendered its decision, or on June 23, 1962, a new Board of Commissioners of Immigration (composed of Martiniano P. Vivo, Marcial O. Rañola and Virgilio Gaston), acting under the authority of Memorandum Order No. 9, reversed *motu proprio* the decision of the Board of Special Inquiry and ordered the exclusion of Teban Caoile and his three brothers.

The ground for the exclusion was that they were not properly documented for admission (Sec. 29[a] [17], Com. Act No. 613). The *motu proprio* review is sanctioned by Section 27(b) of the Immigration Law which provides that the Board of Commissioners may reverse a decision of the Board of Special Inquiry *motu proprio* "within one year from the promulgation of said decision." The three Commissioners, in directly refuting the conclusions of the Board of Special Inquiry, said:

"Records of investigation show that although the claim to Philippine citizenship of Antonio Caoile, alleged father of applicants, is well-founded (his birth and baptismal certificates show that he is the illegitimate child of Maria Caoile, Filipino), there is nothing in the same records to indicate strongly and definitely that subjects are the real children of the former.

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"The Board of Special Inquiry relied so much on the blood tests of applicants and their alleged father; the income tax returns of the supposed father for the years 1953, 1958, 1959 and 1960; the statutory declaration of one Chan Wah Hing; and their own oral testimony.

"In cases of similar nature, it has been held that blood tests are not conclusive proof of relationship unless they are negative and derogatory; income tax returns are self-serving and unreliable; statutory declarations are in most cases biased and the declarant is not available to be tested for credibility; and oral testimonies of applicants are similarly biased and self-serving." (Annex D of Petitioners' Brief).

The Commissioners concluded that Teban Caoile and his three brothers had not satisfactorily established their Philippine citizenship. Their return to the port whence they came or to the country of which they are nationals was ordered. On that same date, June 23rd, the Commissioner of Immigration issued a warrant of exclusion to implement the decision.

Pursuant to that warrant, Teban Caoile was arrested on March 10, 1964 by Captain Macalinao and detained at the Office of the Constabulary's Criminal Investigation Service at Camp Crame.

On March 12, 1964 Juan Garcia, a relative of Teban Caoile filed a petition for *habeas corpus* in the Court of First Instance of Rizal, Quezon City Branch, on the ground that Caoile, as a Filipino citizen, was illegally detained. The trial court issued an order requiring the production in Court of Teban Caoile. On March 14, 1964 the Commissioner of Immigration, in his return, explained that Caoile was detained by virtue of the warrant of exclusion implementing the decision of the Board of Commissioners.

The case was submitted for decision on the basis of a stipulation of facts and on the testimonies of Antonio Caoile and Immigration Commissioner Vivo.

Vivo testified that the decision of the Board of Special Inquiry was reversed by the Board of Commissioners because Teban Caoile had not satisfactorily established his claim of Philippine citizenship. Vivo admitted that, because Caoile's whereabouts were unknown, he was not heard before the decision was reversed. Vivo ventured the opinion that Caoile "does not have the appearance

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of a mestizo Chinese-Filipino but he looks like a pure-blooded Chinese," an observation concurred in by the trial court.

The unusual incident, which occurred at the hearing in the lower court, may shed light on the authenticity of Teban Caoile's claim of Philippine citizenship. Judge Nicasio Yatco recounts the incident in this manner:

". . . (A)fter Commissioner Vivo had finished with his testimony, he asked for time to present one witness. When he came back to the courtroom, he had with him the witness Antonio Caoile. To the testimony of this witness Atty. Yuseco (counsel of Juan Garcia) objected vigorously on the ground that the questions sought to be propounded are immaterial.

"Solicitor Abaya explained to the Court that the purpose of presenting this witness is only to aid the Court in the proper determination of the issues raised. Because the Court permitted the witness to answer, Atty. Yuseco withdrew his appearance, and so the trial proceeded without his presence. Anyway, it was the later stage of the trial already when he withdrew his appearance." (Annex A, p. 53, Petitioners Brief).

Antonio Caoile, the supposed father of Teban Caoile, declared that he is a Filipino citizen. He categorically affirmed *"that he does not know Teban Caoile," that "it was only in the hearing of the case that he saw Teban Caoile" and that he (Antonio) was married only about five years prior to 1964.*

On March 24, 1964 the trial court rendered a decision dismissing the petition for *habeas corpus*. It found that Teban Caoile was legally detained.

Juan Garcia appealed to the Court of Appeals, where he renewed his motion for Caoile's release on bail which had been denied by the trial court. The Commissioner of Immigration opposed the motion. The Court of Appeals allowed Caoile's release upon his posting bail in the sum of P5,000. The Commissioner filed in this Court a petition for *certiorari* and prohibition, wherein he assailed the resolution allowing the release of Caoile on bail. The petition was dismissed (Commissioner of Immigration *vs.* Fernandez, L-22696, May 29, 1964, 11 SCRA 184).

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As already stated, the Court of Appeals granted the writ of *habeas corpus* and nullified the warrant of exclusion. It declared that Antonio Caoile's testimony in the lower court "does not carry the necessary weight to overthrow the established Filipino citizenship of Teban Caoile and his brothers, which has been duly proved in a previous legal proceeding."

Appellant Commissioner, through the Solicitor General, contends that the Court of Appeals erred (1) in basing its decision on facts not stipulated upon by the parties or not proven in the trial court; (2) in holding that the two Deputy Commissioners of Immigration, in noting down the decision of the Board of Special Inquiry, ratified that decision; (3) in holding that Juan Garcia was denied "a reasonable opportunity to cross-examine" Antonio Caoile; (4) in making findings on extraneous issues and in indulging in speculations not supported by the evidence and (5) in assuming jurisdiction over the appeal although only legal issues were involved.

The jurisdiction of the Court of Appeals to entertain the appeal is a matter that is already *res judicata*. This Court ruled that, inasmuch as factual and legal questions were involved, the Court of Appeals had jurisdiction over the appeal (Commissioner of Immigration *vs.* Fernandez, *supra*).

One ground relied upon by the Court of Appeals in granting the petition for *habeas corpus* is the pronouncement of this Court in the 1964 bail incident (Commissioner of Immigration *vs.* Fernandez, *supra*). It was intimated in that case that it was improper for the new Board of Commissioners to have set aside the decision of the Board of Special Inquiry after the two Deputy Commissioners had "noted" that decision and, thereby, affirmed it.

What this Court said in the bail incident regarding the finality of the decision of the Board of Special Inquiry was an *obiter dictum*. The *ratio decidendi* of the decision in the bail incident, which was a *certiorari* and prohibition case, was that the Court of Appeals did not "abuse, much less gravely abuse its discretion" in granting bail to Teban Caoile. Hence, *certiorari* did not lie.

The finality of the decision of the Board of Special Inquiry was not the primary issue in the bail incident. It was the Court of Appeals that was called upon to rule first on that issue in the

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light of the evidence presented in the trial court. That issue was not foreclosed by the decision in the bail incident.

The fact that this Court, in its decisions in the bail incident, did not cite at all Memorandum Order No. 9 of the Secretary of Justice (which nullified the action taken by the old Board of Commissioners on the decision of the Board of Special Inquiry) shows that the propriety of the notation made by the two Deputy Commissioners of the old Board was not thoroughly threshed out in the bail incident. That order is pregnant with significance in this case.

When the facts are undisputed, then the question of whether or not the conclusion drawn therefrom by the Court of Appeals is correct is a question of law which this Court has jurisdiction to resolve (Cunanan *vs.* Lazatin, 74 Phil. 719; Joaquin *vs.* Navarro, 93 Phil. 257, 270).

The overriding fact in this case is that, pursuant to the directive of the Secretary of Justice, who was acting in the public interest, and in strict conformity with the Immigration Law, the Board of Commissioners reversed the decision of the Board of Inquiry and ruled that Teban Caoile had not established his Philippine citizenship. That decision of the Board of Commissioners also negated the supposed approval, by Deputy Commissioners De la Rosa and Talabis, of the decision of the Board of Special Inquiry on Teban Caoile's citizenship.

Another controlling fact is that, during the trial, the ruling of the Board of Commissioners was fortified, if not rendered conclusive, by the testimony of Antonio Caoile that he is not the father of Teban Caoile.

Those ultimate facts are undisputed. We hold that, under those facts, the Court of Appeals erred in concluding that Teban Caoile has been illegally detained and that the petition for *habeas corpus* should be granted.

The Court of Appeals, in assailing Judge Yatco's decision, adverted to "the possibility that this Antonio Caoile, who testified before the lower court is different from the Antonio Caoile, who declared before the Board of Special Inquiry and who was also interviewed by Investigator Nacu."

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The Appellate Court ratiocinated that, assuming that he was the genuine Antonio Caoile, it could not understand his motive for disowning his paternity of Teban Caoile. It bewailed the fact that the lower court did not allow Garcia's counsel to institute a *certiorari* proceeding in this Court to review the order allowing Antonio Caoile to testify in this case. It noted that Juan Garcia was unduly denied a reasonable opportunity to cross-examine Antonio Caoile since his counsel was provoked to withdraw his appearance and stage a walkout.

As to the doubt harbored by the Court of Appeals on the identity of Antonio Caoile, appellant Commissioner of Immigration observed in his brief that Juan Garcia's counsel objected to the presentation of Antonio Caoile as witness "not on the ground of identity" but because he did not want the issue of citizenship to be reopened.

Appellant Commissioner noted that Edgardo R. Hojilla, the Chairman of the Board of Special Inquiry that rendered the decision admitting Teban Caoile and his brothers on the ground that they are Filipino citizens, was one of Juan Garcia's lawyers in the lower court. Antonio Caoile testified before Hojilla at the hearing before the Board of Special Inquiry. Hojilla saw him at the hearing in the lower court. The Solicitor General notes that if Antonio Caoile was not the same person who testified before Hojilla, then Hojilla would have called Judge Yatco's attention to the imposture. Hojilla did not question the identity of Antonio Caoile. Hojilla preferred to join J. C. Yuseco, Garcia's chief counsel, in his walkout.

Those observations of appellant Commissioner in his brief were not refuted by respondent Garcia in his reply-brief. The speculations of the Court of Appeals on the identity of Antonio Caoile appear to be implausible. They are anchored on suspicion. The sea of suspicion has no shores (Dy Keng *vs.* Collector of Customs, 40 Phil. 118).

Juan Garcia had all the opportunity during the trial to confront Antonio Caoile and rebut his denial of the filiation of Teban Caoile. Garcia failed to do so. His counsel chose not to fight. He retreated and created the impression that he would not be able to controvert the testimony of Antonio Caoile.

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The Court of Appeals also took into account a supposed report of Investigator P. R. Nacu of the Department of Justice dated January 25, 1963 (not 1965), which allegedly "confirmed the findings of the Board of Commissioners."

Respondent Garcia's theory is that, after the issuance of the warrant of exclusion but before Teban Caoile's arrest, the Office of the Secretary of Justice, through its Investigation Unit, allegedly ordered an inquiry into the citizenship of Teban Caoile and his brothers. A report dated January 25, 1963 was allegedly submitted by Agent Nacu.

That report was branded by the Solicitor General as a forgery. However, since the Court of Appeals relied on that report in its decision, the contents thereof may just as well be set forth herein, subject to the evaluation of their veracity and authenticity.

According to the report, as quoted in the decision under appeal, Agent Nacu on January 24, 1963 interviewed Antonio Caoile, a resident of 139 Mayon Street, Sta. Mesa Heights, Quezon City. Antonio Caoile allegedly said that he was born at Urdaneta, Pangasinan, the son of Maria Caoile and her common-law husband, a Chinaman named So Te. Antonio Caoile went to China in 1931 and married Ong Siu Ty. They begot Teban, Santos and Jose all surnamed Caoile, who were born in Chinkiang, Fukien, China. Antonio Caoile returned to the Philippines in *1937*, leaving his family in China. In 1961 Antonio Caoile brought to the Philippines from Hongkong his sons, Teban, Santos and Jose. They were all declared Filipino citizens and were given the corresponding identification certificates. The investigator recommended that, as they are the legitimate sons of Antonio Caoile, no case be filed against them (pp. 35-36, Respondent's Brief; Decision of Court of Appeals, pp. 76-78 of Petitioners' Brief).

It should be noted that the report, when juxtaposed with the decision of the Board of Special Inquiry No. 1, exhibits grave discrepancies which impair its probative value.

Thus, the report mentions three (3) alleged sons of Antonio Caoile, as having arrived in Manila from Hongkong in 1961, namely, Teban, Santos and Jose. On the other hand, in the decision it is stated that four (4) sons of Antonio Caoile sought admission in

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1961. Their names are Teban, Santos, *Vicente* and *Felipe*. The fifth son, Jose, "was delayed in coming over to this country."

The report pinpoints Chinkiang, Fukien as the birthplace of the three sons, whereas, the decision indicates Chi Bi, Amoy, as their birthplace. It is averred in the report that Antonio Caoile supposedly returned to the Philippines from China in *1937*, whereas, in the decision, it is implied that he was still in China in 1938 because he cohabited with his Chinese wife up to that year (Annex C of Petitioners' Brief).

So, the report, far from confirming *in toto* the decision, contradicts it on some vital points. Those inconsistencies destroy the probative value of the decision and the report. They cancel each other. After reading them, one is at a loss as to the truth of certain details. The report did not improve Teban Caoile's case. It became worse. The unavoidable conclusion is that the report and the decision should be discarded. Their fabricated character becomes apparent because of their discrepancies. They appear to be worthless when viewed in relation to Antonio Caoile's testimony that he is not the father of Teban Caoile.*

The decisive issue is whether the ruling of the Board of Commissioners, as strengthened by Antonio Caoile's testimony, should prevail over the decision of the Board of Special Inquiry which was "noted" by Deputy Commissioner De la Rosa and Talabis but disapproved by Commissioner Galang. The first Board of Commissioners did not meet collectively to discuss and deliberate on the decision of the Board of Special Inquiry. Its action was set aside by Memorandum Order No. 9 of the Secretary of Justice.

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* That is not all. The report, in Winston Churchill's phrase, became "a riddle wrapped in a mystery inside an enigma" in view of the affidavit of Captain Antonio M. Encarnacion dated July 22, 1964. He swore that the investigation unit of the Office of the Secretary of Justice never handled the case of Teban Caoile. He swore that the records do not show that Sergeant P.R. Nacu submitted any report of investigation. He swore "with absolute certainty"—that his purported signature above the typed name "Captain Antonio M. Encarnacion," signifying that he approved Nacu's report of January 25, 1963, was not, repeat, was not his signature (Annex "G" of Petitioners' Brief).

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Individual action by the members of the Board of Commissioners renders nugatory the purpose of its constitution as a board (Arocha *vs.* Vivo, *supra*).

The later Board of Commissioners, headed by the appellant, acted on the hypothesis that the documentation supporting Teban Caoile's alleged Philippine citizenship was fraudulent and manufactured. That conclusion was confirmed by the testimony of Antonio Caoile, who, at risk of being indicted for perjury, denied any paternal relationship to Teban Caoile. His testimony implied that a monstrous deception was practiced upon the immigration authorities (See De la Cruz *vs.* Collector of Customs, 26 Phil. 270; Macalayac *vs.* Collector of Customs, 61 Phil. 50).

The foundation of Teban Caoile's assertion of Philippine citizenship is his representation that he is Antonio Caoile's son. That foundation collapsed when Antonio Caoile revealed that he could not have been the father of Teban Caoile. His revelation belied Teban Caoile's documentation of Philippine citizenship and unmasked it as an imposition.

"When a party resorts to falsehood or fraud in order to strengthen his evidence, it is presumed that he knows perfectly well that his cause is groundless" (6 Moran's Comments on the Rules of Court, 1970 Ed. 42 citing De Leon *vs.* Juyco, 73 Phil. 588; 1 Wigmore on Evidence 566-8; Gonzales *vs.* Mauricio, 53 Phil. 728).

In view of the foregoing considerations, we are of the opinion that the decision of the Board of Commissioners, which was confirmed by the lower court, should be upheld.

WHEREFORE, the decision of the Court of Appeals is set aside and the decision of the trial court is affirmed with costs against respondents-appellee.

SO ORDERED.

Zaldivar (Chairman), Antonio, and *Fernandez, JJ.,* concur.
Fernando, J., concurs in the result.
Barredo, J., did not take part.