

Chang Chan Vs. Nagle

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Court : US Supreme Court

Decided On : May-25-1925

Appeal No. : 268 U.S. 346

Appellant : Chang Chan

Respondent : Nagle

Judgement :

Chang Chan v. Nagle - 268 U.S. 346 (1925)

U.S. Supreme Court Chang Chan v. Nagle, 268 U.S. 346 (1925)

Chang Chan v. Nagle

No. 11

Argued October 5, 1923

Decided May 25, 1925

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ON CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT

SYLLABUS

1. Chinese women, being themselves ineligible to citizenship, do not become citizens of the United States by marrying American citizens. Rev.Stats. 2169; Act of Sept. 22, 1922, c. 411, 42 Stat. 1022. P. [268 U. S. 351](#) .

2. Chinese women who, before the date of the Immigration Act of 1924, married American citizens of the Chinese race permanently domiciled in this country were debarred by the Act from coming here to join their husbands (no treaty right being involved), since 13(c) forbids admission of aliens ineligible to citizenship, with certain exceptions which do not include such wives. P. [268 U. S. 352](#) .

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3. Such Chinese wives, coming here to join their husbands, are immigrants as defined by 3 of the Act. P. [268 U. S. 352](#) .

4. That consular officers must issue them visas does not signify that such wives must be admitted in view of 2(g) of the Act, expressly declaring that an immigration visa shall not entitle an immigrant to enter if, upon arrival, he is found inadmissible under the immigration laws. *Id.*

5. The provision of 4 of the Immigration Act, 1924, classifying wives and minor children of citizens of the United States residing here, etc., as nonquota immigrants cannot be incorporated among the exceptions of 13(c) upon the theory that it was omitted by oversight. *Id.*

6. The hardships of a case, and suppositions of what is rational and consistent in immigration policy, cannot justify a court in departing from the plain terms of an immigration act. P. [268 U. S. 353](#) .

Question certified by the circuit court of appeals arising upon appeal of a decision of the district court (see *Ex parte Chan Shee*, 2 F.2d 998) refusing relief by habeas corpus to the appellants, who were the husbands of four Chinese women detained by the immigration authorities, and the wives themselves.

MR. JUSTICE Mc REYNOLDS delivered the opinion of the Court.

Petitioners, Chang Chan and three others, claiming to be native-born citizens of the United States permanently domiciled therein, sought release from detention by the Immigration Commissioner of four young Chinese women, alleged to be their lawful wives wedded in China prior to July 1, 1924. On that day, the young women were on the high seas as passengers upon the *President Lincoln*. Arriving at San Francisco July 11, without immigration visas as provided for by 9, Immigration Act of 1924, c.190, 43 Stat. 153, they sought and were

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finally denied permanent admission. In support of this action, the Secretary of Labor said:

"Neither the citizenship of the alleged husband nor the relationship of the applicant to him has been investigated, for the reason that, even if it were conceded that both elements exist she would still be inadmissible, as 13 of the Act of 1924 mandatorily excludes the wives of United States citizens of the Chinese race if such wives are of a race or persons ineligible to citizenship, and the Department has no alternative than to recommend exclusion."

The court below inquires, Judicial Code, 239:

"Should the petitioners be refused admission to the United States either, (a) because of the want of a visa or (b) because of want of right of admission if found to be Chinese wives of American citizens?"

This cause involves no claim of right granted or guaranteed by treaty, and is therefore radically different from *Cheung Sum Shee v. Nagle*, ante, p. [268 U. S. 336](#) .

The excluded wives are alien Chinese ineligible to citizenship here. Rev.Stat. 2169; Act May 6, 1882, c. 126, 14, 22 Stat. 58, 61. Notwithstanding their marriage to citizens of the United States, they did not become citizens and remained incapable of naturalization.

Prior to September 22, 1922, Rev.Stat. 1994 applied. It provided:

"Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen."

Since that date, c. 411, 42 Stat. 1021-1022, has been in force. It provides:

"That any woman who marries a citizen of the United States after the passage of this Act, or any woman whose husband is naturalized after the passage of this Act, shall not become a citizen of the United States

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by reason of such marriage or naturalization, but, if eligible to citizenship, she may be naturalized upon full and complete compliance with all requirements of the naturalization laws. . . ."

Section 13(c), Immigration Act of 1924, declares:

"No alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a nonquota immigrant under the provisions of subdivision (b), (d), or (e) of section 4, or (2) is the wife, or the unmarried child under eighteen years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him, or (3) is not an immigrant as defined in section 3."

Subdivisions (b), (d), and (e) of 4 apply to immigrants previously lawfully admitted, immigrants who seek to enter as religious ministers or professors, and to students. They are not controlling here. An "immigrant" is defined in 3 as "any alien departing from any place outside the United States destined for the United States," with certain exceptions, none of which describes the present applicants.

Taken in their ordinary sense, the words of the statute plainly exclude petitioners' wives.

We cannot accept the theory that as consular officers are required to issue visas to Chinese wives of American citizens, therefore they must be admitted. A sufficient answer to this is found in 2(g):

"Nothing in this Act shall be construed to entitle an immigrant to whom an immigration visa has been issued to enter the United States if, upon arrival in the United States, he is found to be inadmissible to the United States under the immigration laws."

Nor can we approve the suggestion that the provisions contained in subdivision (a) * of 4 were omitted from

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the exceptions in 13(c) because of some obvious oversight, and should now be treated as if incorporated therein. Although descriptive of certain "nonquota immigrants," that subdivision is subject to the positive inhibition against all aliens ineligible to citizenship who do not fall within definitely specified and narrowly restricted classes.

In response to the demand for an interpretation of the Act which will avoid hardships and further a supposed rational and consistent policy, it suffices to refer to what we have said in *Yee Won v. White*, [256 U. S. 399](#) , [256 U. S. 401](#) -402; *Chung Fook v. White*, [264 U. S. 443](#) , [264 U. S. 445](#) -446; *Commissioner, etc. v. Gottlieb*, [265 U. S. 310](#) , [265 U. S. 314](#) .

The applicants should be refused admission if found to be Chinese wives of American citizens. It is unnecessary now to consider the requirement of the Act in respect of visas.

*

"An immigrant who is the unmarried child under 18 years of age, or the wife, of a citizen of the United States who resides therein at the time of the filing of a petition under section 9."

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