

101 Phil. 223

[G. R. No. L-9810. April 27, 1957]

**ESTANISLAO LEUTERIO, PETITIONER, VS. COMMISSIONER OF CUSTOMS,
RESPONDENT.**

D E C I S I O N

LABRADOR, J.:

Appeal from a decision of the Court of Tax Appeals holding that the seizure and forfeiture of 100 crates of onions belonging to petitioner Estanislao Leuterio were in accordance with the customs laws, and denying the refund of P1,175.28 paid by him to redeem said merchandise under section 1388 of the Revised Administrative Code.

On September 19, 1954, 100 crates of onions shipped from Kobe, Japan and consigned to petitioner E. N. Leuterio arrived at the port of Manila. On December 20, 1954, the Collector of Customs ordered the consignment to be seized and declared the same forfeited in favor of the Republic of the Philippines, for the reason that the importation was made in violation of Central Bank Circulars Nos. 44 and 45 in relation to section 1383 (m) 3, 4 and 5 of the Revised Administrative Code and Executive Order No. 328 (Annex C). On December 15, 1954, the Secretary of Finance had also decreed that the said importation was in violation of the Anti-Dumping Law for the reason that the consignee had declared the price of onions to be \$1.20 per crate of 45 kilos, instead of \$3.20, and the consignee was in addition ordered to pay an amount equal to the difference between the declared price and the actual price. This decision was without prejudice to whatever action may be taken against the importation for violation of any customs laws and regulations and other existing laws and regulations being enforced by the Bureau of Customs (Annex B).

The present action was instituted before the Court of Tax Appeals for the review of the above decisions, for the annulment of the seizure of the onions, and for the refund of the amounts paid as ordered by the Secretary of Finance. It is alleged in support of the petition that the Import Control Law had already expired; that the Central Bank has no power to

promulgate Circulars Nos. 44 and 45 and the same are null and void; that the importation of onions from Japan is not prohibited by the Barter Trade Agreement with that country; and that Executive Order No. 328 and particularly sections 14 and 15 thereof are null and void as constituting an undue exercise of legislative power by the President. Against the petition the Commissioner of Customs filed an answer, alleging the following special defenses: (1) that the Circulars Nos. 44 and 45 of the Central Bank and Executive Order No. 328 are valid and have the force of law and the importations in violation thereof are subject to forfeiture under Section 1363 (f) of the Revised Administrative Code; (2) that the importation of the said onions, which involves no-dollar remittance, is paid for in the black market and his evasion of the payment of the special excise tax and foreign exchange, within the control of the Monetary Board and the Central Bank; (3) that upon the investigation of the case it was found out that because the petitioner declared the price to be \$1.20 per crate of 45 kilos, whereas the actual price thereof in Japan was \$3.20, petitioner also violated the provisions of section 1363 (m) 3, 4 and 5 of the Revised Administrative Code and thus subjected the merchandise imported to forfeiture under customs laws. The Court of Tax Appeals held that seizure and confiscation could not be made under the provisions of Central Bank Circulars Nos. 44 and 45 for the reason that the same are null and void. It also held that the forfeiture could not be justified under Executive Order No. 328 for the reason that the licensing of imports originally granted to the Import Control Administration is not granted to the Central Bank and has not been granted to any other entity. But it also held that the order of forfeiture was justified under paragraph (m), sub-paragraphs 3,4 and 5 of section 1363 of the Revised Administrative Code, which provide as follows:

“Sec. 1363. *Property subject to forfeiture under custom laws.*— Vessels, cargo, merchandise, and other objects and tilings shall, under the conditions hereinbelow specified, be subject to forfeiture:

* * * * *

“(m) Any merchandise the importation or exportation of which is effected or attempted in any of the ways or under any of the conditions hereinbelow described—

* * * * *

“3. Upon the wrongful making by the owner, importer, exporter, or consignee of any merchandise, or by the agent of either, of any declaration or affidavit, touching such merchandise and in connection with the importation or exportation of the same.

“4. Upon the wrongful making or delivery by the same person or persons, of any false invoice, letter or paper touching such merchandise and in connection with the importation or exportation of the same.

“5. Upon the causing or procurement, by the same person or persons, of any merchandise to be entered or passed at any customhouse by any other fraudulent practice, device, or omission or by means “whereof the government is or might be deprived of its lawful duties on such merchandise.”

This conclusion is based on its finding “that the 100 crates of onions were grossly undervalued, the petitioner having submitted an import entry and other documents to the Bureau of Customs in connection with said importation, purporting to show that the value of said merchandise was \$1.20 per crate when in fact the actual market value thereof at the port of shipment was \$3.20 per crate.” The court also held that while no evasion of customs duties were contemplated by the importer there was intent to evade the internal revenue tax collectible by customs officers as deputies of the Collector of the Internal Revenue, hence, the importation was in violation of the Internal Revenue Law which is enforced by the Bureau of Customs.

On this appeal it is first contended that the Commissioner of Customs had never invoked the provisions of Section 183 (B) of the National Internal Revenue Code as a defense against defendant-importer’s right of recovery. It is not true that the Commissioner of Customs has not invoked the provisions of the National Internal Revenue Code as a defense to a petition for review. The answer filed by the Commissioner of Customs to the petition for review expressly alleges “that the petitioner also violated the provisions of Section 1363 (m) 3, 4 and 5, thus subjecting to forfeiture under the customs laws the merchandise imported.

It is also contended that the Internal Revenue Law, especially the provisions thereof imposing the advance sales tax under Section 183 (B), does not fall within the jurisdiction of the Bureau of Customs for the reason that when the Bureau of Customs collects the advance sales tax it does so as deputies of the Collector of Internal Revenue. It is argued as a consequence therefrom that the undervaluation of the onions may not be considered as a

violation of the customs laws or the laws and regulations enforced by said bureau. There is no merit in this contention. The law considers as customs law all laws and regulations subject to enforcement by the Bureau of Customs, thus:

” ‘ Customs law’ includes not only the provisions of the Customs Law and regulations pursuant thereto but all other laws and regulations which are subject to enforcement by the Bureau of Customs or otherwise within its jurisdiction.”
(Section 1419, last paragraph, Revised Administrative Code.)

It is last contended that as the Secretary of Finance had declared that the importation was a violation of the Anti-Dumping Law, which law is penal in character and complete in itself, Section 1363 (m) of the Revised Administrative Code should not have been applied as the same is not necessary to complement the provisions of the said Anti-Dumping Law. It is to be noted, however, that the Secretary of Finance, in declaring the importation as a violation of the Anti-Dumping Law, expressly reserved any other action that may be taken against the importation for violation of any customs laws and regulations and other existing laws and regulations being enforced by the Bureau of Customs (Annex B).

Without passing upon the correctness of the ruling of the Court of Tax Appeals on the validity of Circulars Nos. 44 and 45 of the Central Bank of the Philippines, we find that the seizure and forfeiture was justified under the provisions of section 1363 (m) 3, 4 and 5 of as it is hereby, dismissed and the decision appealed from, affirmed.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Conception, Reyes, J. B. L., and Endencia, JJ., concur.