

F. SARE ENTERPRISES, PETITIONER, VS. THE COMMISSIONER OF CUSTOMS, RESPONDENT.*G.R. No. L-22263. August 28, 1969*

Ponente: CASTRO, J.

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The petitioner F. Sare Enterprises' importations of dried fish, smoked ham, pears, chestnuts, waternuts, dates, oranges, apples, and other foodstuffs from Hongkong, which arrived in Ma-nila in December, 1954 in three shipments, were seized by cus-toms authorities for failure of the petitioner to present the corres-ponding Central Bank release certificates as required by Central Bank Circulars 44 and 45, and were subsequently delivered to it only upon its posting of three bonds in the amounts of P 11,760, P11,455 and P10, 344.

After appropriate proceedings, the Collector of Customs on April 1, 1955 rendered a decision against the petitioner and ordered it and its surety to pay jointly and severally to the Bureau of Customs the full amounts of the bonds given to secure the re-release of the goods. On appeal taken by the petitioner, the decision of the Collector of Customs was affirmed first by the Commissioner of Customs on December 14, 1959 and then by the Court of Tax Ap-peals on July 3, 1963. Hence this petition for review, the petitioner contending (1) that neither Circular 44 nor Circular 45 provides for the forfeiture of goods imported in violation thereof; (2) that the goods in question cannot be considered either as "merchandise of prohibited importation" or as goods imported "contrary to law" within the meaning of section 1363(f) of the Administrative Code; and (3) that assuming that forfeiture could validly be ordered, both circulars have been repealed by Circular 133 with the result that the importation in question must now be deemed to have been law-fully made.

The issues, while perhaps fresh and novel at the time they were raised by the petitioner, have since been resolved squarely by this Court.

Thus, in *Capulong v. Aseron*[1] this Court held that while Circulars 44 and 45 do not expressly so provide, the forfeiture of goods imported in violation of those circulars may nevertheless be justified on the basis of section 1363(f) of the Administrative Code,[2] which authorizes the forfeiture of "Any merchandise of pro-hibited importation or exportation, the importation or exportation of which is effected or attempted contrary to law." Circulars 44 and 45 should be correlated to section 1363 of the Administrative Code.

Upon the second issue raised by the petitioner, it was held in *Capulong* that while goods imported in violation of the circulars may not be considered "merchandise of prohibited importation," they nevertheless fall within the other category of merchandise imported "contrary to law," because regulations issued pursuant to "customs laws" form part thereof, so that violation of the said regulations can properly be regarded as coming within the pur-view of section 1363(f).

Finally, with respect to the third issue, this Court said in *Capulong*:

"Petitioner also contends that the mer-chandise in question cannot be legally forfeited under Central Bank

Circulars Nos. 44 and 45 because these circulars have already been repealed by Central Bank Circular No. 133. This contention is without merit. Central Bank Circular 133 has not exactly repealed Central Bank Circulars Nos. 44 and 45 but rather it reenacted them when it provided therein that all existing regulations not inconsistent with the circular are deemed incorporated and made integral parts thereof by reference. And it cannot be disputed that both Central Bank Circulars Nos. 44 and 45 and Central Bank Circular No. 133 have a common purpose, - which is to require the presentation of a release certificate from the Central Bank before any importation may be made to the Philippines. Evidently, the purpose of these circulars is to keep a tab of the volume of imports that come in to the Philippines in order to enable the Central Bank to make a survey and study of the appropriate measures that may be adopted to remedy the long-drawn financial crisis in the country.

"Even assuming that Central Bank Circular No. 133 had the effect of repealing impliedly Central Bank Circulars Nos. 44 and 45, such repeal, however, cannot have the effect of abating the forfeiture case instituted against petitioner for the simple reason that forfeiture proceedings are civil in nature and not criminal. In this sense, the repeal cannot be given any retroactive effect.

"x x x Petitioner contends that upon the expiration of Republic Act No. 650 the Commissioner of Customs lost jurisdiction over the case and therefore his decision was null and void. This contention is untenable. It is a settled rule that a court, be it judicial or administrative, that has acquired jurisdiction over a case, retains it even after the expiration of the law governing the case. Herein, we are concerned with the effect of the expiration of a law, not with the abrogation of a law, and we hold the view that once the Commissioner of Customs has acquired jurisdiction over the case, the mere expiration of Republic Act No. 650 will not divest him of his jurisdiction thereon duly acquired while said law was still in force. In other words, we believe that despite the expiration of Republic Act No. 650 the Commissioner of Customs retained his jurisdiction over the case and could continue to take cognizance thereof until its final determination, for the main question brought in by the appeal from the decision of the Collector of Customs was the legality or illegality of the decision of the Collector of Customs, and that question could not have been abated by the mere expiration of Republic Act No. 650. We firmly believe that the expiration of Republic Act No. 650 could not have produced the effect (1) of declaring legal the importation of the cotton counterpanes which were illegally imported, and (2) of declaring the seizure and forfeiture ordered by the Collector of Customs illegal or null and void; in other words, it could not have the effect of annulling or setting aside the decision of the Collector of Customs which was rendered while the law was in force and which should stand until it is revoked by the appellate tribunal. x x x (Roxas v. Sayoc, G.R. No. L-8502, November 29, 1956)."

The ruling in *Capulong* has been reiterated and reaffirmed in numerous decisions of this Court^[3] and it is now late in the day to suggest that it should be reexamined - which of course the petitioner does not do.

ACCORDINGLY, the decision appealed from is affirmed, at petitioner's cost.

Concepcion, C.J., Dizon, Makalintal, Sanchez, Fernando, Capistrano, Teehankee and Barredo, JJ., concur. Reyes and Zaldivar, JJ., are on official leave.

[1] G.R. No. L-22989, May 14, 1966, 17 SCRA 11.

[2] Now Tariff and Customs Code, sec. 2530(f).

[3] *De la Cruz v. Court of Tax Appeals*, G.R. Nos. L-23335 & L-23452, Feb. 29, 1968, 22 SCRA 886; *De la Cruz v. Court of Tax Appeals*, G.R. Nos. L-23334 & L-23451, Feb. 29, 1968, 22 SCRA 891; *Capulong v. Acting Comm'r*, G.R. No. L-22991, Jan. 16, 1968, 22 SCRA 32, citing other cases; *Leuterio v. Commissioner of*

Customs, G.R. No. L-21800, June 22, 1968, 23 SCRA 1055; La-zaro v. Commissioner of Customs, G.R. Nos. L-22511 & L-22343, May 16, 1966, 17 SCRA 36; see also Papa v. Mago, G.R. No. L--27360, Feb. 28, 1968, 22 SCRA 857.

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