

HON. RICARDO G. PAPA, AS CHIEF OF POLICE OF MANILA, HON. JUAN PONCE ENRILE, AS COMMISSIONER OF CUSTOMS, PEDRO PACIS, AS COLLECTOR OF CUSTOMS OF THE PORT OF MANILA, AND MARTIN AL...

G.R. No. L-27360. February 28, 1968

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an original action for prohibition and certiorari, with preliminary injunction, filed by Ricardo Tapa, Chief of Police of Manila; Juan Ponce Enrile, Commissioner of Customs; Pedro Pacis, Collector of Customs of the Port of Manila; and Martin Alagao, a patrolman of the Manila Police Department, against Remedios Mago and Hon. Hilarion Jarencio, Presiding Judge of Branch 23 of the Court of First Instance of Manila, praying for the annulment of the order issued by respondent Judge in Civil Case No. 67496 of the Court of First Instance of Manila under date of March 7, 1967, which authorized the release under bond of certain goods which were seized and held by petitioners in connection with the enforcement of the Tariff and Customs Code, but which were claimed by respondent Remedios Mago, and to prohibit respondent Judge from further proceeding in any manner whatsoever in said Civil Case No. 67496. Pending the determination of this case this Court issued a writ of preliminary injunction restraining the respondent Judge from executing, enforcing and/or implementing the questioned order in Civil Case No. 67496 and from proceeding with said case.

Petitioner Martin Alagao, head of the counter-intelligence unit of the Manila Police Department, acting upon a reliable information received on November 3, 1966 to the effect that a certain shipment of personal effects, allegedly misdeclared and undervalued, would be released the following day from the customs zone of the port of Manila and loaded on two trucks, and upon orders of petitioner Ricardo Papa, Chief of Police of Manila and a duly deputized agent of the Bureau of Customs, conducted surveillance at gate No. 1 of the customs zone. When the trucks left gate No. 1 at about 4:30 in the afternoon of November 4, 1966, elements of the counter-intelligence unit went after the trucks and intercepted them at the Agrifina Circle, Ermita, Manila. The load of the two trucks, consisting of nine bales of goods, and the two trucks, were seized on instructions of the Chief of Police. Upon investigation, a person claimed ownership of the goods and showed to the policemen a "Statement and Receipts of Duties Collected on Informal Entry No. 147-5501", issued by the Bureau of Customs in the name of a certain Bienvenido Naguit.

Claiming to have been prejudiced by the seizure and detention of the two trucks and their cargo, Remedios Mago and Valentin B. Lanopa filed with the Court of First Instance of Manila a petition "for mandamus with restraining order or preliminary injunction," docketed as Civil Case No. 67496, alleging, among others, that Remedios Mago was the owner of the goods seized, having purchased them from the Sta. Monica Grocery in San Fernando, Pampanga; that she hired the trucks owned by Valentin B. Lanopa to transport the goods from said place to her residence at 1657 Laon Laan St., Sampaloc, Manila; that the goods were seized by members of the Manila Police Department without search warrant issued by a competent court; that Manila Chief of Police Ricardo Papa denied

the request of counsel for Remedios Mago that the bales be not opened and the goods contained therein be not examined; that then Customs Commissioner Jacinto Gavino had illegally assigned appraisers to examine the goods because the goods were no longer under the control and supervision of the Commissioner of Customs; that the goods, even assuming them to have been misdeclared and undervalued, were not subject to seizure under Section 2531 of the Tariff and Customs Code because Remedios Mago had bought them from another person without knowledge that they were imported illegally; that the bales had not yet been opened, although Chief of Police Papa had arranged with the Commissioner of Customs regarding the disposition of the goods, and that unless restrained their constitutional rights would be violated and they would truly suffer irreparable injury. Hence Remedios Mago and Valentin Lanopa prayed for the issuance of a restraining order, ex parte, enjoining the above-named police and customs authorities, or their agents, from opening the bales and examining the goods, and a writ of mandamus for the return of the goods and the trucks, as well as a judgment for actual, moral and exemplary damages in their favor.

On November 10, 1966, respondent Judge Hilarion Jarencio issued an order ex parte restraining the respondents in Civil Case No. 67496 — now petitioners in the instant case before this Court — from opening the nine bales in question, and at the same time set the hearing of the petition for preliminary injunction on November 16, 1966. However, when the restraining order was received by herein petitioners, some bales had already been opened by the examiners of the Bureau of Customs in the presence of officials of the Manila Police Department, an assistant city fiscal and a representative of herein respondent Remedios Mago.

Under date of November 15, 1966, Remedios Mago filed an amended petition in Civil Case No. 67496, including as party defendants Collector of Customs Pedro Pacis of the Port of Manila and Lt. Martin Alagao of the Manila Police Department. Herein petitioners (defendants below) filed, on November 24, 1966, their "Answer with Opposition to the Issuance of a Writ of Preliminary Injunction", denying the alleged illegality of the seizure and detention of the goods and the trucks and of their other actuations, and alleging special and affirmative defenses, to wit: that the Court of First Instance of Manila had no jurisdiction to try the case; that the case fell within the exclusive jurisdiction of the Court of Tax Appeals; that, assuming that the court had jurisdiction over the case, the petition stated no cause of action in view of the failure of Remedios Mago to exhaust the administrative remedies provided for in the Tariff and Customs Code; that the Bureau of Customs had not lost jurisdiction over the goods because the full duties and charges thereon had not been paid; that the members of the Manila Police Department had the power to make the seizure; that the seizure was not unreasonable; and that the persons deputized under Section 2203 (c) of the Tariff and Customs Code could effect searches, seizures and arrests in inland places in connection with the enforcement of the said Code. In opposing the issuance of the writ of preliminary injunction, herein petitioners averred in the court below that the writ could not be granted for the reason that Remedios Mago was not entitled to the main reliefs she prayed for; that the release of the goods, which were subject to seizure proceedings under the Tariff and Customs Code, would deprive the Bureau of Customs of the authority to forfeit them; and that Remedios Mago and Valentin Lanopa would not suffer irreparable injury. Herein petitioners prayed the court below for the lifting of the restraining order, for the denial of the issuance of the writ of preliminary injunction, and for the dismissal of the case.

At the hearing on December 9, 1966, the lower court, with the conformity of the parties, ordered that an inventory of the goods be made by its clerk of court in the presence of the representatives of the claimant of the goods, the Bureau of Customs, and the Anti-Smuggling Center of the Manila Police Department. On December 13, 1966, the above-named persons filed a "Compliance" itemizing the contents of the nine bales.

Herein respondent Remedios Mago, on December 23, 1966, filed an ex parte motion to release the goods, alleging that since the inventory of the goods seized did not show any article of prohibited importation, the same should be

released as per agreement of the parties upon her posting of the appropriate bond that may be determined by the court. Herein petitioners filed their opposition to the motion, alleging that the court had no jurisdiction to order the release of the goods in view of the fact that the court had no jurisdiction over the case, and that most of the goods, as shown in the inventory, were not declared and were, therefore, subject to forfeiture. A supplemental opposition was filed by herein petitioners on January 19, 1967, alleging that on January 12, 1967 seizure proceedings against the goods had been instituted by the Collector of Customs of the Port of Manila, and the determination of all questions affecting the disposal of property proceeded against in seizure and forfeiture proceedings should thereby be left to the Collector of Customs. On January 30, 1967, herein petitioners filed a manifestation that the estimated duties, taxes and other charges due on the goods amounted to P95,772.00. On February 2, 1967, herein respondent Remedios Mago filed an urgent manifestation and reiteration of the motion for the release under bond of the goods.

On March 7, 1967, the respondent Judge issued an order releasing the goods to herein respondent Remedios Mago upon her filing of a bond in the amount of 1*40,000.00, and on March 13, 1967, said respondent filed the corresponding bond.

On March 13, 1967, herein petitioner Ricardo Papa, on his own behalf, filed a motion for reconsideration of the order of the court releasing the goods under bond, upon the ground that the Manila Police Department had been directed by the Collector of Customs of the Port of Manila to hold the goods pending termination of the seizure proceedings.

Without waiting for the court's action on the motion for reconsideration, and alleging that they had no plain, speedy and adequate remedy in the ordinary course of law, herein petitioners filed the present action for prohibition and certiorari with preliminary injunction before this Court. In their petition petitioners allege, among others, that the respondent Judge acted without jurisdiction in ordering the release to respondent Remedios Mago of the disputed goods, for the following reasons: (1) the Court of First Instance of Manila, presided by respondent Judge, had no jurisdiction over the case; (2) respondent Remedios Mago had no cause of action, in Civil Case No. 67496 of the Court of First Instance of Manila due to her failure to exhaust all administrative remedies before invoking judicial intervention; (3) the Government was not estopped by the negligent and/or illegal acts of its agents in not collecting the correct taxes; and (4) the bond fixed by respondent Judge for the release of the goods was grossly insufficient. In due time, the respondents filed their answer to the petition for prohibition and certiorari in this case. In their answer, respondents alleged, among others: (1) that it was within the jurisdiction of the lower court presided by respondent Judge to hear and decide Civil Case No. 67496 and to issue the questioned order of March 7, 1967, because said Civil Case No. 67496 was instituted long before seizure and identification proceedings against the nine bales of goods in question were instituted by the Collector of Customs; (2) that petitioners could no longer go after the goods in question after the corresponding duties and taxes had been paid and said goods had left the customs premises and were no longer within the control of the Bureau of Customs; (3) that respondent Remedios Mago is a purchaser in good faith of the goods in question so that those goods can not be the subject of seizure and forfeiture proceedings; (4) that the seizure of the goods was effected by members of the Manila Police Department at a place outside the control and jurisdiction of the Bureau of Customs and effected without any search warrant or a warrant of seizure and detention; (5) that the warrant of seizure and detention subsequently issued by the Collector of Customs is illegal and unconstitutional, it not being issued by a judge; (6) that the seizing officers have no authority to seize the goods in question because they are not articles of prohibited importation; (7) that petitioners are estopped to institute the present action because they had agreed before the respondent Judge that they would not interpose any objection to the release of the goods under bond to answer for whatever duties and taxes the said goods may still be liable; and (8) that the bond for the release of the goods was sufficient.

The principal issue in the instant case is whether or not, the respondent Judge had acted with jurisdiction in issuing the order of March 7, 1967 releasing the goods in question.

The Bureau of Customs has the duties, powers and jurisdiction, among others, (1) to assess and collect all lawful revenues from imported articles,, and all other dues, fees, charges, fines and penalties, accruing under the tariff and customs laws; (2) to prevent and suppress smuggling and other frauds upon the customs; and (3) to enforce tariff and customs laws.[1] The goods in question were imported from Hongkong, as shown in the "Statement and Receipts of Duties Collected on Informal Entry." [2] As long as the importation has not been terminated the imported goods remain under the jurisdiction of the Bureau of Customs. Importation is deemed terminated only upon the payment of the duties, taxes and other charges upon the articles, or secured to be paid, at the port of entry and the legal permit for withdrawal shall have been granted.[3] The payment of the duties, taxes, fees and other charges must be in full.[4]

The record shows, by comparing the articles and duties stated in the aforesaid "Statement and Receipts of Duties Collected on Informal Entry" with the manifestation of the Office of the Solicitor General[5] wherein it is stated that the estimated duties, taxes and other charges on the goods subject of this case amounted to P95,772.00 as evidenced by the report of the appraiser of the Bureau of Customs, that the duties, taxes and other charges had not been paid in full. Furthermore, a comparison of the goods on which duties had been assessed, as shown in the "Statement and Receipts of Duties Collected on Informal Entry" and the "compliance" itemizing the articles found in the bales upon examination and inventory,[6] shows that the quantity of the goods was underdeclared, presumably to avoid the payment of duties thereon. For example, Annex B (the statement and receipts of duties collected) states that there were 40 pieces of ladies' sweaters, whereas Annex H (the inventory contained in the "compliance") states that in bale No. 1 alone there were 42 dozens and 1 piece of ladies' sweaters of assorted colors; in Annex B, only 100 pieces of watch bands were assessed, but in Annex H, there were in bale No. 2 209 dozens and 5 pieces of men's metal watch bands (white) and 120 dozens of men's metal watch bands (gold color), and in bale No. 7, 320 dozens of men's metal watch bands (gold color); in Annex B, 20 dozens only of men's handkerchief were declared, but in Annex H it appears that there were 224 dozens of said goods in bale No. 2, 120 dozens in bale No. 6, 380 dozens in bale No. 7, 220 dozens in bale No. 8, and another 200 dozens in bale No. 9. The articles contained in the nine bales in question, were, therefore, subject to forfeiture under Section 2530, pars. e and m, (1), (3), (4), and (5) of the Tariff and Customs Code. And this Court has held that merchandise, the importation of which is effected contrary to law, is subject to forfeiture,[7] and that goods released contrary to law are subject to seizure and forfeiture.[8]

Even if it be granted, arguendo, that after the goods in question had been brought out of the customs area the Bureau of Customs had lost jurisdiction over the same, nevertheless, when said goods were intercepted at the Agrifina Circle on November 4, 1966 by members of the Manila Police Department, acting under directions and orders of their Chief, Ricardo G. Papa, who had been formally deputized by the Commissioner of Customs,[9] the Bureau of Customs had regained jurisdiction and custody of the goods. Section 1206 of the Tariff and Customs Code imposes upon the Collector of Customs the duty to hold possession of all imported articles upon which duties, taxes, and other charges have not been paid or secured to be paid, and to dispose of the same according to law. The goods in question, therefore, were under the custody and at the disposal of the Bureau of Customs at the time the petition for mandamus, docketed as Civil Case No. 67496, was filed in the Court of First Instance of Manila on November 9, 1966. The Court of First Instance of Manila, therefore, could not exercise jurisdiction over said goods even if the warrant of seizure and detention of the goods for the purposes of the seizure and forfeiture proceedings had not yet been issued by the Collector of Customs.

The ruling in the case of "Alberto de Joya, et al. v. Hon. Gregorio Lantin, et al.," G. R. No. L-24037, decided by

this Court on April 27, 1967, is squarely applicable to the instant case. In the *De Joya* case, it appears that Francindy Commercial of Manila bought from Ernerose Commercial of Cebu City 90 bales of assorted textiles and rags, valued at "P117,731.00, which had been imported and entered thru the port of Cebu. Ernerose Commercial shipped the goods to Manila on board an inter-island vessel. When the goods were about to leave the customs premises in Manila, on October 6, 1964, the customs authorities held them for further verification, and upon examination the goods were found to be different from the declaration in the cargo manifest of the carrying vessel. Francindy Commercial subsequently demanded from the customs authorities the release of the goods, asserting that it is a purchaser in good faith of those goods; that a local purchase was involved so the Bureau of Customs had no right to examine the goods; and that the goods came from a coastwise port. On October 26, 1964, Francindy Commercial filed in the Court of First Instance of Manila a petition for mandamus against the Commissioner of Customs and the Collector of Customs of the port of Manila to compel said customs authorities to release the goods.

Francindy Commercial alleged in its petition for mandamus that the Bureau of Customs had no jurisdiction over the goods because the same were not imported to the port of Manila; that it was not liable for duties and taxes because the transaction was not an original importation; that the goods were not in the hands of the importer nor subject to said importer's control, nor were the goods imported contrary to law with its (Francindy Commercial's) knowledge; and that the importation had been terminated. On November 12, 1964, the Collector of Customs of Manila issued a warrant of seizure and identification against the goods. On December 3, 1964, the Commissioner of Customs and the Collector of Customs, as respondents in the mandamus case, filed a motion to dismiss the petition on the grounds of lack of jurisdiction, lack of cause of action, and in view of the pending seizure and forfeiture proceedings. The court of first instance held resolution on the motion to dismiss in abeyance pending decision on the merits. On December 14, 1964, the Court of First Instance of Manila issued a writ of preventive and mandatory injunction, on prayer by Francindy Commercial, upon a bond of P20,000.00. The Commissioner of Customs and the Collector of Customs sought the lifting of the preliminary and mandatory injunction, and the resolution of their motion to dismiss. The Court of First Instance of Manila, however, on January 12, 1965, ordered them to comply with the preliminary and mandatory injunction, upon the filing by Francindy Commercial of an additional bond of P50,000.00. Said customs authorities thereupon filed with this Court, on January 14, 1965, a petition for certiorari and prohibition with preliminary injunction. In resolving the question raised in that case, this Court held:

"This petition raises two related issues: first, has the Customs bureau jurisdiction to seize the goods and institute forfeiture proceeding against them? and (2) has the Court of First Instance jurisdiction to entertain the petition for mandamus to compel the Customs authorities to release the goods?

"Francindy Commercial contends that since the petition in the Court of First Instance was filed (on October 26, 1964) ahead of the issuance of the Customs warrant of seizure and forfeiture (on November 12, 1964), the Customs bureau should yield to the jurisdiction of the said court.

"The record shows, however, that the goods in question were actually seized on October 6, 1964, i.e., before Francindy Commercial sued in court. The purpose of the seizure by the Customs bureau was to verify whether or not Custom duties and taxes were paid for their importation. Hence, on December 23, 1964, Customs released 22 bales thereof, for the same were found to have been released regularly from the Cebu Port (Petition, Annex 'L'). As to goods imported illegally or released irregularly from Customs custody, these are subject to seizure under Section 2530 m. of the Tariff and Customs Code (RA 1957).

"The Bureau of Customs has jurisdiction and power, among others, to collect revenues from imported articles, fines and penalties and suppress smuggling and other frauds on customs; and to enforce tariff and customs laws (Sec. 602, Republic Act 1957).

"The goods in question are imported articles entered at the Port of Cebu. Should they be found to have been released irregularly from Customs custody in Cebu City, they are subject to seizure and forfeiture, the proceedings for which comes within the jurisdiction of the Bureau of Customs pursuant to Republic Act 1937.

"Said proceedings should be followed; the owner of the goods may set up defenses therein (*Pads v. Averia*, L-22526, Nov. 20, 1966). From the decision of the Commissioner of Customs appeal lies to the Court of Tax Appeals, as provided in Sec. 2402 of Republic Act 1937 and Sec. 11 of Republic Act 1125. To permit recourse to the Court of First Instance in cases of seizure of imported goods would in effect render ineffective the power of the Customs authorities under the Tariff Code and deprive the Court of Tax Appeals of one of its exclusive appellate jurisdictions. As this Court has ruled in *Pacis v. Averia*, supra, Republic Acts 1937 and 1125 vest jurisdiction over seizure and forfeiture proceedings exclusively upon the Bureau of Customs and the Court of Tax Appeals. Such law being special in nature, while the Judiciary Act defining the jurisdiction of Courts of First Instance is a general legislation, not to mention that the former are later enactments, the Court of First Instance should yield to the jurisdiction of the Customs authorities."

It is the settled rule, therefore, that the Bureau of Customs acquires exclusive jurisdiction over imported goods, for the purposes of enforcement of the customs laws, from the moment the goods are actually in its possession or control, even if no warrant of seizure or detention had previously been issued by the Collector of Customs in connection with seizure and forfeiture proceedings. In the present case, the Bureau of Customs actually seized the goods in question on November 4, 1966, and so from that date the Bureau of Customs acquired jurisdiction over the goods for the purposes of the enforcement of the tariff and customs laws, to the exclusion of the regular courts. Much less then would the Court of First Instance of Manila have jurisdiction over the goods in question after the Collector of Customs had issued the warrant of seizure and detention on January 12, 1967.[10] And so, it cannot be said, as respondents contend, that the issuance of said warrant was only an attempt to divest the respondent Judge of jurisdiction over the subject matter of the case. The court presided by respondent Judge did not acquire jurisdiction over the goods in question when the petition for mandamus was filed before it, and so there was no need of divesting it of jurisdiction. Not having acquired jurisdiction over the goods, it follows that the Court of First Instance of Manila had no jurisdiction to issue the questioned order of March 7, 1967 releasing said goods.

Respondents also aver that petitioner Martin Alagao, an officer of the Manila Police Department, could not seize the goods in question without a search warrant. This contention cannot be sustained. The Chief of the Manila Police Department, Ricardo G. Papa, having been deputized in writing by the Commissioner of Customs, could, for the purposes of the enforcement of the customs and tariff laws, effect searches, seizures, and arrests,[11] and it was his duty to make seizure, among others, of any cargo, articles or other movable property when the same may be subject to forfeiture or liable for any fine imposed under customs and tariff laws.[12] He could lawfully open and examine any box, trunk, envelope or other container wherever found when he had reasonable cause to suspect the presence therein of dutiable articles introduced into the Philippines contrary to law; and likewise to stop, search and examine any vehicle, beast or person reasonably suspected of holding or conveying such article as aforesaid.[13] It cannot be doubted, therefore, that petitioner Ricardo G. Papa, Chief of Police of Manila, could lawfully effect the search and seizure of the goods in question. The Tariff and Customs Code authorizes him to demand assistance of any police officer to effect said search and seizure, and the latter has the legal duty to render said assistance.[14] This was what happened precisely in the case of Lt. Martin Alagao who, with his unit, made the search and seizure of the two trucks loaded with the nine bales of goods in question at the Agrifina Circle. He was given authority by the Chief of Police to make the interception of the cargo.[15]

Petitioner Martin Alagao and his companion policemen had authority to effect the seizure without any search warrant issued by a competent court. The Tariff and Customs Code does not require said warrant in the instant

case. The Code authorizes persons having police authority under Section 2203 of the Tariff and Customs Code to enter, pass through or search any land, inclosure, warehouse, store or building, not being a dwelling house; and also to inspect, search and examine any vessel or aircraft and any trunk, package, box or envelope or any person on board, or stop and search and examine any vehicle, beast or person suspected of holding or conveying any dutiable or prohibited article introduced into the Philippines contrary to law, without mentioning the need of a search warrant in said cases.[16] But in the search of a dwelling house, the Code provides that said "dwelling house may be entered and searched only upon warrant issued by a judge or justice of the peace . . ."[17]It is our considered view, therefore, that except in the case of the search of a dwelling house, persons exercising police authority under the customs law may effect search and seizure without a search warrant in the enforcement of customs laws.

Our conclusion finds support in the case of *Carroll v. United States*, 39 A.L.R., 790, 799, wherein the court, considering a legal provision similar to Section 2211 of the Philippine Tariff and Customs Code, said as follows:

"Thus, contemporaneously with the adoption of the 4th Amendment, we find in the first Congress, and in the following second and fourth Congresses, a difference made as to the necessity for a search warrant between goods subject to forfeiture, when concealed in a dwelling house or similar place, and like goods in course of transportation and concealed in a movable vessel, where they readily could be put out of reach of a search warrant. . . ."

"Again, by the 2d section of the Act of March 3, 1815 (3 Stat. at L. 231, 232, chap. 94), it was made lawful for customs officers not only to board and search vessels within their own and adjoining districts, but also to stop, search, and examine any vehicle, beast, or person on which or whom they should suspect there was merchandise which was subject to duty or had been introduced into the United States in any manner contrary to law, whether by the person in charge of the vehicle or beast or otherwise, and if they should find any goods, wares, or merchandise thereon, which they had probable cause to believe had been so unlawfully brought into the country, to seize and secure the same, and the vehicle or beast as well, for trial and forfeiture. This Act was renewed April 27, 1816 (3 Stat. at L. 315, chap. 100), for a year and expired. The Act of February 28, 1865, revived §2 of the Act of 1815, above described, chap. 67, 13 Stat. at L. 441. The substance of this section was re-enacted in the 3d section of the Act of July 18, 1866, chap. 201, 14 Stat. at L. 178, and was thereafter embodied in the Revised Statutes as § 3061, Comp. Stat. § 5763, 2 Fed. Stat. Anno. 2d ed. p. 1161. Neither § 3061 nor any of its earlier counterparts has ever been attacked as unconstitutional. Indeed, that section was referred to and treated as operative by this court in *Von Cotzhausen v. Nazro*, 107 U. S. 215, 219, 27 L. ed. 540, 541, 2 Sup. Ct. Rep. 503. "..."

In the instant case, we note that petitioner Martin Alagao and his companion policemen did not have to make any search before they seized the two trucks and their cargo. In their original petition, and amended petition, in the court below Remedios Mago and Valentin Lanopa did not even allege that there was a search.[18] All that they complained of was,

"That while the trucks were on their way, they were intercepted without any search warrant near the Agrifina Circle and taken to the Manila Police, where they were detained."

But even if there was a search, there is still authority to the effect that no search warrant would be needed under the circumstances obtaining in the instant case. Thus, it has been held that:

"The guaranty of freedom from unreasonable searches and seizures is construed as recognizing a necessary difference between a search of a dwelling house or other structure in respect of which a search warrant may readily be obtained and a search of a ship, motorboat, wagon, or automobile for contraband goods, where it is not practicable to secure a warrant, because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought." (47 Am. Jur., pp. 513-514, citing *Carroll v. United States*, 267 U.S., 132,

69 L. ed., 543, 45 S. Ct, 280, 39 A.L.R., 790; *People v. Case*, 320 Mich., 379, 190 N.W., 389, 27 A.L.R., 686.)

In the case of *People v. Case* (320 Mich., 379, 190 N.W., 389, 27 A.L.R., 686), the question raised by defendant's counsel was whether an automobile truck or an automobile could be searched without search warrant or other process and the goods therein seized used afterwards as evidence in a trial for violation of the prohibition laws of the State. Same counsel contended the negative, urging the constitutional provision forbidding unreasonable searches and seizures. The Court said:

"... Neither our state nor the Federal Constitution directly prohibits search and seizure without a warrant, as is sometimes asserted. Only 'unreasonable' search and seizure is forbidden. . .

"... The question whether a seizure or a search is unreasonable in the language of the Constitution is a judicial and not a legislative question; but in determining whether a seizure is or is not unreasonable, all of the circumstances under which it is made must be looked to.

"The automobile is a swift and powerful vehicle of recent development, which has multiplied by quantity production and taken possession of our highways in battalions, until the slower, animal-drawn vehicles, with their easily noted individuality, are rare. Constructed as covered vehicles to standard form in immense quantities, and with a capacity for speed rivaling express trains, they furnish for successful commission of crime a disguising means of silent approach and swift escape unknown in the history of the world before their advent. The question of their police control and reasonable search on highways or other public places is a serious question far deeper and broader than their use in so-called 'bootlegging' or 'rum running,' which is itself is no small matter. While a possession in the sense of private ownership, they are but a vehicle constructed for travel and transportation on highways. Their active use is not in homes or on private premises, the privacy of which the law especially guards from search and seizure without process. The baffling extent to which they are successfully utilized to facilitate commission of crime of all degrees, from those against morality, chastity, and decency, to robbery, rape, burglary, and murder, is a matter of common knowledge. Upon that problem a condition, and not a theory, confronts proper administration of our criminal laws. Whether search of and seizure from an automobile upon a highway or other public place without a search warrant is unreasonable is in its final analysis to be determined as a judicial question in view of all the circumstances under which it is made."

Having declared that the seizure by the members of the Manila Police Department of the goods in question was in accordance with law and by that seizure the Bureau of Customs had acquired jurisdiction over the goods for the purposes of the enforcement of the customs and tariff laws, to the exclusion of the Court of First Instance of Manila, We have thus resolved the principal and decisive issue in the present case. We do not consider it necessary, for the purposes of this decision, to discuss the incidental issues raised by the parties in their pleadings.

Wherefore, judgment is hereby rendered, as follows:

- (a) Granting the writ of certiorari and prohibition prayed for by petitioners;
- (b) Declaring null and void, for having been issued without jurisdiction, the order of respondent Judge Hilarion U. Jarencio,. dated March 7, 1967, in Civil Case No. 67496 of the Court of First Instance of Manila;
- (c) Declaring permanent the preliminary injunction is sued by this Court on March 31, 1967 restraining respondent Judge from executing, enforcing and/or implementing his order of March 7, 1967 in Civil Case No. 67496 of the Court of First Instance of Manila, and from proceeding in any manner in said case;
- (d) Ordering the dismissal of Civil Case No. 67496 of the Court of First Instance of Manila; and
- (e) Ordering the private respondent, Remedios Mago, to pay the costs. It is so ordered.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

Petition granted.

[1] Section 602, pars, a, b, and j, Tariff and Customs Code - Republic Act 1937.

[2] Annex B to petition.

[3] Section 1202, Tariff and Customs Code.

[4] Section 1204, Tariff and Customs Code.

[5] Annex N to petition.

[6] Annex H to petition.

[7] Pascual v. Commissioner of Customs, L-11947, June 30, 1959; Capulong v. Aseron, L-22989, May 14, 1960; Capulong v. Acting Commissioner of Customs, L-22990, May 19, 1960; Lazaro v. Commissioner of Customs, L-22511, and L-22513, May 16, 1966.

[8] De Joya, et al. v. Lantin, et al., L-24037, April 27, 1967.

[9] This deputation is not disputed by respondents.

[10] Pacis, et al. v. Averia, et al., L-22526, November 29, 1966; Government of the Philippine Islands, et al. v. Gale, et al., 94 Phil., 95.

[11] Section 2203 (c), Tariff and Customs Code.

[12] Section 2205, Tariff and Customs Code.

[13] Section 2211, Tariff and Customs Code.

[14] Section 2207, Tariff and Customs Code.

[15] Annex A to the petition.

[16] Sections 2208, 2210 and 2211, Tariff and Customs Code.

[17] Section 2209, Tariff and Customs Code.

[18] Records, pp. 26 and 43.

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