

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. PEDRO R. EXCONDE DEFENDANT AND APPELLANT.

*G.R. No. L-9820. August 30, 1957*

Ponente: REYES, J.B.L., J.

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### REYES, J.B.L., J.:

The accused Pedro R. Exconde was convicted in the Court of First Instance of Manila of violating Central Bank Circular No. 37, approved September 25, 1952, limiting to P100 the amount of Philippine currency that an outgoing passenger could have on his person. The court below meted upon him a sentence four (4) months of imprisonment and fine of P100 and costs.

The facts are not disputed. On May 5, 1954, the appellant Pedro R. Exconde was on board the s.s. President Wilson, as one of its passengers bound for Japan. Supervising agent Jose A. Fojas, of the Department of Finance, found in Exconde's possession P5,090 in Philippine currency, plus U. S. \$50 in cash; travelers' checks for \$100; and a Bank of America remitter's receipt for \$350. Admittedly Exconde's possession of the P5,000 was not licensed, and was in violation of Central Bank Circular No. 37 (48 Off. Gaz. 3823) providing" as follows:

"SECTION 1. Pursuant to section 34 of Republic Act No. 265 the Monetary Board is hereby promulgating this circular. Violation of any of its provisions shall subject the offender to the penal provisions of said Act.

SEC. 2. The import and export of Philippine coins and notes without the necessary license issued by the Central Bank is prohibited except in the following cases:

(a) Travelers entering the Philippines may bring in Philippine coins and notes in an amount not exceeding P100, provided the coins do not exceed P50. In case of travelers arriving on ships, the coins they bring in shall not exceed P50 for first class passengers, P20 for second class passengers and P10 for third class passengers.

(b) Travelers leaving the Philippines may take with them Philippine coins and notes in an amount not exceeding P100, provided the coins do not exceed P5.

SEC. 3. The following shall also be held liable within the meaning of this circular:

(a) Any outgoing: passengers already booked and ready to leave the country found having in his person or among his luggage, at the airport or piers, an amount exceeding P100 or Philippine coins exceeding P5 when no license has been previously obtained for the excess amount.

(b) The sender of any mail matter, envelope, or package already deposited in the mails, manifested or put on board an outgoing international carrier found to contain an amount exceeding P100 when no license has been previously obtained for the excess amount.

SEC. 4. All circulars, notifications or regulations previously promulgated by the Monetary Board inconsistent herewith are hereby repealed.

SEC. 5. This circular shall take effect immediately."

The aforesaid circular was promulgated in connection with sec. 34 of Republic Act 265 (Central Bank Act) providing that:

"SEC. 34. Proceedings upon violation of laws and regulations.—

Whenever any person or entity willfully violates this Act or any order, instruction, rule or regulation legally issued by the Monetary Board, the person or persons responsible for such violation shall be punished by a fine of not more than twenty thousand pesos and by imprisonment of not more than five years.

"Whenever a banking institution persists in violating its charter or by-laws or any law, or orders, instructions, rules or regulations legally issued by the Monetary Board, or whenever a banking institution persist in carrying on its business in an unlawful or unsafe manner, the Board shall, by the Solicitor General, and without prejudice to the penalties provided in the preceding paragraph of this section, file a petition in the Court of First Instance praying the assistance of the court to compel the banking institution to discontinue the violations or practices objected to in the petition of the Board. The Monetary Board may, with the approval of the court, take such action as the court may deem necessary to compel the banking institution complained against to discontinue the violations or practices set forth in the Board's petition, and, if necessary, the Board may, under order of the Court, direct the Superintendent of Banks to liquidate the business of the institution."

Two appeals were taken from the decision of the trial court and are submitted to us for decision. One is the appeal perfected by Exconde, who alleges that Circular No. 37 is invalid, and the other is the appeal taken by the Government from the lower court's refusal to order the confiscation of the P5,000.00 unauthorizedly held by Exconde and found in his possession by agent Fojas.

The first argument of appellant Exconde is that sec. 34 of the Central Bank Act can not validate the issuance of Circular No. 37 because sec. 34 refers solely to regulations under Art, IV, Chapter B of the Act, concerning activities of the "Department of Supervision and Examination" of banking institutions.

We see no merit in this contention. The first paragraph of sec. 34, heretofore quoted, is so broad in terms that it was evidently designed to establish penal sanctions for any and all violations of the Act as well as of the regulations legally issued by the Monetary Board; and there being no other sanctioning provision elsewhere in the Act itself, appellant's stand, if upheld, would lead to the result that, with the exception of Art. IV, Chapter B, all other provisions of the Central Bank Act could be violated with impunity. That effect the law could not have intended.

It is next argued that sec. 14 of the Central Bank Law does not grant authority to the Monetary Board to prohibit the exportation of Philippine currency, and that if any such authority was in fact granted, the same is void as an invalid delegation of legislative power. Section 14 is as follows:

SEC. 14. Exercise of authority.—In order to exercise the authority granted to it under this Act, the Monetary Board shall:

- (a) Prepare and issue such rules and regulations as it considers necessary for the effective discharge of the responsibilities and exercise of the powers assigned to the Monetary Board and to the Central Bank under this Act;
- (b) Direct the management, operations and administration of the Central Bank and prepare such rules and regulations as it may deem necessary or convenient for this purpose;
- (c) On the recommendation of the Governor, appoint, fix the remunerations, and remove all officers and employees of the Central Bank, with the exception of the Governor; and
- (d) Authorize such expenditures by the Central Bank as are in the interest of the effective administration and

operation of the Bank."

It is well established in this jurisdiction that, while the making of laws is a non-delegable activity that corresponds exclusively to Congress, nevertheless the latter may constitutionally delegate authority to promulgate rules and regulations to implement a given legislation and effectuate its policies, for the reason that the legislature often finds it impracticable (if not impossible) to anticipate and provide for the multifarious and complex situations that may be met in carrying the law into effect. All that is required is that the regulation should be germane to the objects and purposes of the law; that the regulation be not in contradiction with it, but conform to the standards that the law prescribes (*Calalang vs. Williams*, 70.Phil. 727; *Pangasinan Transportation vs. Public Service Commission*, 70 Phil. 22; *Peo. vs. Rosenthal*, 68 Phil. 328; *Peo. vs. Vera*, 39 Phil. 660; *Rubi vs. Prov. Board of Mindoro*, 39 Phil. 660).

Thus, in *Calalang vs. Williams*, *supra*, we ruled (p. 732):

"In the case of *People vs. Itosenthal and Osmena*, G. R. Nos. 46076 and 46077, promulgated June 12, 1939,[1] and in *Pangasinan Transportation vs. The Public Service Commission*, G. R. No. 47065, promulgated June 26, 1940,[2] this Court had occasion to observe that the principle of separation of powers has been made to adapt itself to the complexities of modern governments, giving rise to the adoption, within certain limits, of the principle of subordinate legislation, not only in the United States and England but in practically all modern governments. Accordingly, with the Rowing. complexity of modern life, the multiplication, of the subjects of governmental regulations, and the increased difficulty of administering the laws, the rigidity of the theory of separation of governmental powers has, to a large extent, been relaxed by permitting the delegation of greater powers by tho legislative and vesting a larger amount of discretion in administrative and executive officials, not only in the execution of the laws, hut also in the promulgation of certain rules and regulations calculated to promote public interest."

Considering that the "responsibilities and—powers" assigned to the Bank and its Monetary Board, mentioned in sec 14 (a), are those specified in sec. 2 of the Act:

"SEC- 2. Responsibilities and objectives.—It shall be the responsibility of the Central Bank of the Philippines to administer the monetary and banking system of the Republic.

It shall be the duty of the Central Bank to use the powers granted to it under this Act to achieve the following objectives:

- (a) To maintain monetary stability in the Philippines;
- (b) To preserve the international value of the peso and the convertibility of the peso into other freely convertible currencies; and
- (c) To promote a rising level of production, employment and real income in the Philippines."

as well as those prescribed in sec. 64 of same law, to wit:

"SEC. 64. Guiding principle,—The Monetary Board shall endeavor to control any expansion or contraction in tho supply, or any rise or fall in prices, which, in the opinion of the Board, is prejudicial to the attainment or maintenance of a high level of production, employment, and real income. In adopting policies and measures in accordance with this, principle the Monetary Board shall have due regard for their effects on the availability and cost of money to particular sectors of the economy as well as to the economy as a whole, and their effects on the relationship of domestic prices and costs to world prices and costs,"

we experience no difficulty in concluding that Circular No. 37 here in question was a valid exercise of the regulatory power delegated by the Central Bank Act, and that said Circular is in harmony with the objectives

sought to be achieved by that law, particularly the control of any prejudicial "expansion and contraction of the money supply" (sec. 64) and "the preservation of the international value of the peso" (sec. 2, par. b). It requires no effort to understand that unless the exportation of currency is curtailed, the value of the peso in terms of other currencies can not be maintained, for the increase of the peso supply in foreign countries would tend to depress its value therein. How far the limitation should go may give rise to honest differences of opinion, but the power to restrict the export of Philippine currency is undoubtedly there, and courts are only concerned with the question of authority, not the wisdom of the measure involved.

Appellants does not dispute that the objectives set forth in sees. 2 and 64 of the Central Bank Act constitute adequate standards to guide the Bank and the Monetary Board; nor may doubt be entertained on that score, specially when compared to those criteria upon which this Court has previously affixed the stamp of its approval, like "public welfare" (*Cardona vs. Binangonan*, 37 Phil. 547); "necessary in the interest of law and order" (*Rubi vs. Provincial Board*, 39 Phil. 660); "public interest" (*People vs. Rosenthal*, 68 Phil. 328); "justice and equity and the substantial merits of the case" (*Int. Hardwood vs. Pañgil Fed. of Labor*, 70 Phil. 602).

Having reached these conclusions, we must likewise assent to the proposition that the violation of Circular No. 37 comes within the penal sanctions of the Central Bank Act; because a violation or infringement of a rule or regulation validly issued can constitute a misdemeanor or a crime punishable as provided in the authorizing statute, and by virtue of the latter.

"\* \*, the regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself can not be extended. So long, however, as the regulations relate solely to carrying into effect the provisions of the law, they are valid. A violation of a regulation prescribed by an executive officer of the Government in conformity with and based upon a statute authorizing such regulation, constitutes an offense and renders the offender liable to punishment in accordance with the provisions of law." (*United States vs. Bailey*, 9 Pet., 238, 252, 254, 256; *Caha vs. United States*, 152 IT. S., 211, 218, *United States vs. Eaton*, 144 U. S., 677), (*U. S. vs. Tupasi, Molina*, 29 Phil. 124)

"The legislature cannot delegate to a board or to an executive officer the power to declare what acts shall constitute a criminal offense. It is competent for it, however, to authorize a commission to prescribe duties on which the law may operate in imposing a penalty and in effectuating the purpose designed in enacting the law. There are numerous cases in which the courts have sustained statutes authorizing administrative officers to promulgate rules on a specified subject and providing that a violation of such rules or orders should constitute a misdemeanor, punishable as provided in the statute." (11 Am. Jur. pp. 965-966)

"Where statutes provide that violation of a rule or regulation of an administrative agency shall be a misdemeanor, if the rule or regulation is reasonable, the enforcement of the penalty for its violation is sustained by the courts, for the legislature and not the administrative agency made the action penal." (Vol. 1, *Sutherland Statutory Construction*, p. 92)

Turning now to the State's appeal, it is apparent that the refusal of the court below to order the confiscation of the unlicensed money found in the possession of the accused Exconde is contrary to the provisions of Art. 10 of the Revised Penal Code, that read as follows:

"Art. 10. Offenses not subject to the provisions of the Code.— Offenses which are or in the future may be punishable under special laws are not subject to the provisions of this Code. This Code shall be supplementary to such laws, unless the latter should specially provide the contrary."

Pursuant to this rule, Art. 45 of the Penal Code (providing for the confiscation or forfeiture of the instruments or tools employed in the commission of a crime) has repeatedly been applied to crimes penalized by special laws, in

default of a contrary mandate therein. Such a course was adopted in *U. S. vs. Bruhez*, 28 Phil. 305, involving a violation of the Opium Law; *U. S. vs. Filart*, 30 Phil. 80 (infraction of the lottery act, No. 1757); *Villaruz vs. Court of First Instance*, 71 Phil. 72 (usury); *Commissioner of Customs vs. Sadia*, 95 Phil., 439, 50 Off. Gaz. 3560 (violation of the Revised Administrative Code).

In the case of *U. S. vs. Bruhez*, supra, this Court affirmed the confiscation of seven P500-peso bills delivered to a customs official in consideration of his allowing: an illegal importation of opium, and considered the money as an instrument for the commission' of the crime. Similarly, in *Commissioner of Customs vs. Encarnacion*, we held that dutiable articles imported without having been declared as required by law should be declared forfeited to the Government under Art. 45 of the Revised Penal Code.

If in *People vs. Paet*, 58 Off. Gaz. 668, and *People vs. Sanchez*, supra, 745, this Court refused to entertain the

Government's appeal from the refusal of the Court of First Instance to decree such a forfeiture, it did so, not because Article 45 of the penal Code did not apply, but exclusively on the ground that in a criminal case wherein the accused had not appealed, no appeal can be interposed by the Government with a view to increasing the penalty imposed by the court below; and confiscation being an additional penalty, the accused would be placed twice in jeopardy of punishment for the same offense, should the Government's appeal be entertained. But in the present case of accused Exconde, his own appeal has removed all bars to the review and correction of the penalty imposed by the court below, even if an increase thereof should be the result. (Rule 12C, sec. 11)

Summing up, we hold: (1) that Circular No. 37, issued by the Monetary Board of the Central Bank, is a valid exercise of the regulatory power constitutionally delegated to the same under the terms of the Central Bank Act (Rep. Act No. 265); (2) that violations of said circular are punishable as criminal offenses under the provisions of the first paragraph of section 34 of said Act; and (3) that, pursuant to Article 10 of the Revised Penal Code, Art. 45 of the said code applies to criminal proceedings for violations of the Central Bank Act or of the regulations validly issued in accordance with the same.

Wherefore the judgment appealed from is therefore modified by ordering that the unlicensed money found in the possession of the appellant Exconde be declared forfeited to the Government. In all other respects, the appealed judgment is affirmed. Costs against the accused appellant Pedro R. Exconde, So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista, Angelo, Labrador, Conception, Endencia and Felix, JJ., concur.

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[1] 68 Phil. 328.

[2] 70 Phil. 221.

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