

JULIO LLAMADO, PETITIONER-APPELLANT, VS. COMMISSIONER OF CUSTOMS, RESPONDENT-APPELLEE.

G.R. No. L-28809. May 16, 1983

Ponente: PLANA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0f1e134cc664/>

PLANA, J.:

The facts are undisputed. On April 9, 1966, at about 11:00 o'clock A.M., Cessna plane P.I. C-494 landed at the Alabat airstrip, Quezon Province, with four persons on board, namely: Romeo Palencia, Osias Mission, Jacob Lim, and one identified only as a Chinese mestizo. A few minutes later the plane took off, piloted by Osias Mission, leaving behind his three companions who told CAA employees at Alabat that they would have a picnic. The Chinese mestizo later told Francisco de Leon, a CAA employee, that his group would use the airstrip in landing contraband good and offered P1,500.00 to de Leon which the latter refused. Romeo Palencia, Jacob Lim, and the Chinese mestizo were picked up by the same Cessna plane at about 1:00 P.M.

At about 5:00 P.M. of the same day, a DC-3 plane (P.I. C-718) landed at the Alabat airstrip. On board were Jesus Granda and Osias Mission. It was followed by Cessna plane P.I. C-494, which unloaded two boxes containing "de gaza" lamps and two cases of kerosene, after which it took off leaving the DC-3.

At about 11:00 o'clock of that night, a motorized banca unloaded cases of "FORTUNE" blue seal cigarettes at the tip of the Alabat airstrip, making several trips between the shore and a vessel lying offshore from where the cigarettes were taken. From the shore, the cigarettes were loaded on board the DC-3 plane by laborers hired by the Chinese mestizo. Some four hours later, after about 300 cases of blue seal cigarettes had been loaded, the DC-3 took off, guided by the lighted "de gaza" lamps brought earlier by the Cessna plane.

The following day, the DC-3 returned to Alabat, loaded the remaining cases of "FORTUNE" blue seal cigarettes, and took off for Porac, Pampanga.

All the landings and take offs of the planes were not recorded in the logbook at Alabat because their pilots refused to sign the same.

A warrant of seizure and detention of the Cessna plane, P.I. C-494, was issued on June 1, 1966 by the Collector of Customs of the Port of Siain, Quezon Province, for violation of Section 2530 of the Tariff and Customs Code. After hearing, a decision was rendered by the Collector of Customs declaring the forfeiture of the Cessna plane pursuant to Section 2530 (a) of the said Code, which was later affirmed by the Commissioner of Customs. Subsequently, upon the filing by petitioner of a P30,000.00 surety bond, the Cessna plane was released to him.

On appeal the Court of Tax Appeals sustained the decision of the Commissioner of Customs, thus:

"WHEREFORE, the decision appealed from is hereby affirmed. The forfeited Cessna plane P.I. C-494 having been released to petitioner and secured by the Philippine Motor Assurance Corporation (PMAC) Bond No. 267..., said bond is hereby forfeited in favor of the Government. Petitioner Julio Llamado and the Philippine Motor Assurance Corporation are hereby ordered to pay, jointly and severally, to the Collector of Customs of

Siain, or any of his authorized representatives, the amount of P30,000.00 corresponding to the appraised values of the forfeited Cessna plane within thirty days from the date this decision becomes final."

Dissatisfied, petitioner has appealed to this Court by way of petition for review.

Petitioner-owner of the Cessna plane contends that the plane cannot be forfeited under Section 2530 (a) of the Tariff and Customs Code for it did not come from a foreign country nor did it carry or unload cigarettes in any place in the Philippines. While not claiming ignorance of the smuggling operation for which his plane was used, petitioner further argues that the Cessna plane cannot be deemed to have been "used" in smuggling since it was not actually used in transporting the cigarettes but was merely used to bring the "de gaza" lamps to the Alabat airstrip. As averred in petitioner's brief—

"The Cessna plane was used in the bringing of the "de Gaza" lanterns at Alabat Airstrip. That was its purpose and nothing more. The "de Gaza" lanterns were used to light the airstrip so that the DC-3 plane P.I. C-718 may be able to take off. That was the purpose of the lanterns. The DC-3 plane P.I. C-718 was used to carry the cigarettes from Alabat Island to Porac, Pampanga. That was its purpose. What was used unlawfully in the importation of the blue seal cigarettes from outside the territorial jurisdiction of the Philippine waters with intention to unload. . . .

"The most that can be said of the Cessna plane in connection with this case is that it was used or employed to aid in or facilitate the unlawful importation of the cigarettes. But unfortunately, vehicles, vessels, or aircrafts used or employed to aid in or facilitate the unlawful importations of articles into the Philippines are not subject to forfeiture under Philippine laws." (pp. 12-13.)

The issue thus raised is whether or not the Cessna plane was used in the unlawful importation of cigarettes within the meaning of Section 2530 (a) of the Tariff and Customs Code, which reads:

"Any vessel or aircraft, cargo or articles and other objects shall, under the following conditions, be subject to forfeiture:

"(a) Any vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of articles into or from any Philippine ports or place except a port of entry; and any vessel which, being of less than thirty tons capacity shall be used in the importation of articles into any Philippine port or place except into a port of the Sulu sea where importation in such vessel may be authorized by the Commissioner, with the approval of the department head."

Under the foregoing legal provision, in order to warrant forfeiture, it is not necessary that the vessel or aircraft must itself carry the contraband. There is nothing in the law that so requires.

Nor is it essential that the vessel or aircraft must come from a foreign country, as argued by the petitioner. The same contention was urged without success by the owner of the forfeited vessel in *C.F. Sharp & Co., Inc. vs. Commissioner of Customs*, 22 SCRA 760.

"It is contended that the M/L Cheton should not be ordered forfeited because ... it was not used to transport said cigarettes from a foreign port to any port or place in the Philippines.

"C.F. Sharp & Co., Inc. maintains further that paragraph a., Section 2530 of the Tariff and Customs Code does not apply to the instant case inasmuch as it was not proved that M/L Cheton was unlawfully used in the importation of articles into any Philippine port.

"There is no question that M/L Cheton was apprehended carrying untaxed cigarettes of foreign origin without the necessary papers showing that they were entered lawfully through a port of entry. There is no question also that said cigarettes were liable for forfeiture pursuant to the Customs and Tariff Code. On the basis of the aforestated facts, the conclusion is inevitable that the M/L Cheton was used in connection with unlawful

importation of said cigarettes. The burden was therefore shifted to the boat's owner to show that the carriage by M/L Cheton of the smuggled cigarettes was lawful. No such showing was made. Hence, the Court of Tax Appeals committed no error in ordering the forfeiture of the launch in question." (pp. 762-764.)

In the case at bar, it is undeniable that the Alabat adventure was entirely and solely a smuggling operation; and the Cessna was deliberately used to insure its successful prosecution. It brought the smugglers to Alabat and subsequently delivered the necessary lighting paraphernalia to enable the cargo plane to take off without peril and transport the smuggled cigarettes to Luzon.

In our view, this complementary, if collateral, use of the Cessna for smuggling operation is sufficient for it to be deemed to have been used unlawfully in the importation or smuggling of blue seal cigarettes. Note that "importation", by law, commences when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unload; and it is "deemed terminated (only) upon payment of the duties, taxes and other charges due upon the articles, or (the same has been) secured to be paid ... and the legal permit for withdrawal shall have been granted." (Tariff and Customs Code, Section 1202.) The participation of the Cessna, as above described, was legally an active involvement of the said plane in, and constituted an unlawful use thereof for, smuggling or illegal importation within the meaning of Section 2530 (a) of the Tariff and Customs Code.

WHEREFORE, the decision of the Court of Tax Appeals under review is hereby affirmed. Costs against the petitioner.

SO ORDERED.

Teehankee (Acting C.J.), Escolin, Vasquez and Gutierrez, Jr., JJ., concur.
Melencio-Herrera and Relova, JJ., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.