

TOMAS CHIA, OWNER-MANAGER OF THE SONY-MERCHANDISING (PHIL.) OF NO. 691 CALLE RAON, QUIAPO, MANILA, AND TOM'S ELECTRONICS OF NO. 690 CALLE RAON, QUIAPO, MANILA, PETITIONER, VS. T...

G.R. No. L-43810. September 26, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This petition for certiorari, prohibition, mandamus and injunction seeks: (1) to nullify the warrants of seizure and detention issued and signed by the Collector of Customs; and (2) to recover the confiscated goods seized under these general warrants, as well as damages.

Acting on a verified report of a confidential informant that assorted electronic and electrical equipment and other articles illegally imported into the Philippines by a syndicate engaged in unlawful "shipside" activities (foreign goods are unloaded from foreign ships in transit through Philippine waters into motorized bancas and landed on Philippine soil without passing through the Bureau of Customs, thereby evading payment of the corresponding customs duties and taxes thereon) were found inside "Tom's Electronics" and "Sony Merchandising (Philippines)" stores located at 690 and 691 Gonzalo Puyat corner Evangelista Street, Quiapo, Manila, a letter-request dated April 23, 1976 was addressed to the Collector of Customs by the Deputy Director of the Regional Anti-Smuggling Action Center, Manila Bay Area (RASAC-MBA) for the issuance of warrants of seizure and detention. After evaluation, the Collector of Customs issued Warrants of Seizure and Detention Nos. 14925 and 14925-A, directing the Anti-Smuggling Action Center to seize the goods mentioned therein, which read as follows:

"Republic of the Philippines,

-versus-

Various electronic equipments

like cassette tape recorders,

car stereos, phonograph

needles (diamond), portable

TV sets, imported long playing

records, spare parts of

TVs and radios and other

electrical appliances.

"TOM'S ELECTRONICS

Claimant

Seizure Identification

No. 14925-A

- _____

SONY MERCHANDISING (PHIL.)

Claimant

Seizure Identification

NO. 14925

"To: The Director or his duly-

authorized representative ASAC

Camp Aguinaldo, Quezon City

"GREETINGS:

"WHEREAS, the above-described articles are liable for forfeiture for having been imported in violation of Section 2536 of the Tariff and Customs Code as amended in relation to Section 2530 (m)-1 of the same Code;

"WHEREAS, the said articles are at present in the custody of Tom's Electronics/Sony Merchandising (Phil.);

"WHEREFORE, by virtue of the authority vested in me by law and in compliance with Finance Department Order No. 96-67 as published in Customs Memorandum Circular No. 133-67 dated July 25, 1967, you are hereby ordered to forthwith seize the aforementioned articles and turn them over to the custody of the Auction and Cargo Disposal Division of this Bureau." (Annexes A & A-1, pp. 10-11, Rollo.)

A RASAC team was formed and given a mission order to enforce the warrants, which it implemented with the assistance of: (1) the National Customs Police (augmenting the team with two members), (2) the Detective Bureau of the Manila Western Police District Headquarters (with three detectives), as well as, (3) Precinct 3 of the Manila Western Police District which exercised jurisdictional control over the place to be raided. The intended raid was entered in the respective police blotters of the police detective bureaus.

On the strength of the warrants of seizure and detention, the raid was conducted in the afternoon of April 25, 1976 at the two stores of the petitioner. ASAC team leader Gener Sula, together with his agents Badron Dobli, Arturo Manuel, Rodolfo Molina and Servillano Florentin of Camp Aguinaldo, Quezon City, assisted by two customs policemen, Val Martinez and Renato Sorima, and Manila policemen Rogelio Vinas and John Peralta, recovered from the stores, assorted electronic equipment and other articles, listed in Annex B of the petition, the customs duties on which allegedly had not been paid (p. 12, Rollo). They were turned over to the Customs Auction and Cargo Disposal Unit of the Bureau of Customs.

On May 17, 1976, in the afternoon, the hearing officer of Acting Collector of Customs Alfredo Francisco conducted a hearing on the confiscation of the goods taken by Gener Sula and his agents.

Two days later, petitioner Tomas Chia filed this petition for certiorari, prohibition and mandamus to enjoin the Collector of Customs and/or his agents from further proceeding with the forfeiture hearing and prayed that the search warrants be declared null and void, that the respondents be ordered to return the confiscated articles to the

petitioner, and to pay damages. Upon filing a P1,000-bond, the Court issued a writ of preliminary injunction to stop the forfeiture proceedings.

The pivotal issue raised in the petition is whether the warrants of seizure and detention (or Seizure Identifications Nos. 14925 and 14925-A) are general warrants issued in violation of Rule 126, Section 3, of the Rules of Court which provides that:

"A search warrant shall not issue but upon probable cause in connection with one specific offense to be determined by the judge or justice of the peace after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized. No search warrant shall issue for more than one specific offense."

and under Section 3 of the Bill of Rights of the 1973 Constitution which provided that:

"The right of the people to be secured in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge or such other responsible officer as may be authorized by law after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized." (Underscoring supplied.)

On the other hand, the respondents contend that the goods seized from petitioner's stores by the RASAC-MBA team were only those subject to customs duties and taxes but which were not supported by any evidence of payment of those duties and taxes. Those goods are subject to forfeiture for having been imported in violation of Section 2536 of the Tariff and Customs Code, as amended, in relation to Section 2530 (m)-1, which provides:

"SEC. 2536. SEIZURES OF OTHER ARTICLES. - The Commissioner of Customs and Collector of Customs and/or any other customs officer, with the prior authorization in writing by the Commissioner, may demand evidence of payment of duties and taxes on foreign articles openly offered for sale or kept in storage, and if no such evidence can be produced, such articles may be seized and subjected to forfeiture proceedings: Provided, however, that during such proceedings the person or entity from whom such articles have been seized shall be given the opportunity to prove or show the source of such articles and the payment of duties and taxes thereon."

The petition is devoid of merit.

Not only may goods be seized without a search and seizure warrant under Section 2536 of the Customs and Tariff Code, when they (the goods) are openly offered for sale or kept in storage in a store as in this case, but the fact is that petitioner's stores - "Tom's Electronics" and "Sony Merchandising (Phil.)" - were searched upon warrants of search and detention issued by the Collector of Customs, who, under the 1973 Constitution, was "a responsible officer authorized by law" to issue them. Sections 2208 and 2209 of the Tariff and Customs Code provide when a search may be made without a warrant and when a warrant is necessary:

"SEC. 2208. RIGHT OF POLICE OFFICER TO ENTER INCLOSURE. - For the more effective discharge of his official duties, any person exercising the powers herein conferred, may at any time enter, pass through or search any land or inclosure or any warehouse, store or other building, not being a dwelling house.

"A warehouse, store or other building or inclosure used for the keeping or storage of articles does not become a dwelling house within the meaning hereof merely by reason of the fact that a person employed as watchman lives in the place, nor will the fact that his family stays there with him alter the case."

"SEC. 2209. - SEARCH OF A DWELLING HOUSE. - A dwelling house may be entered and searched only upon warrant issued by a Judge of the Court or such other responsible officers as may be authorized by law,

upon sworn application showing probable cause and particularly describing the place to be searched and the person or thing to be seized."

The warrants issued by the Collector of Customs in this case were not general warrants, as erroneously alleged by the petitioner for they identified the stores to be searched, described the articles to be seized and specified the provision of the Tariff and Customs Code violated.

Upon effecting the seizure of the goods, the Bureau of Customs acquired exclusive jurisdiction not only over the case but also over the goods seized for the purpose of enforcing the tariff and customs laws.

A party dissatisfied with the decision of the Collector may appeal to the Commissioner of Customs, whose decision is appealable to the Court of Tax Appeals in the manner and within the period prescribed by law and regulations. The decision of the Court of Tax Appeals may be elevated to the Supreme Court for review (Secs. 2309-2316; 2401 & 2402 of the Tariff and Customs Code; Collector of Customs vs. Torres, et al., 45 SCRA 272).

Since petitioner did not exhaust his administrative remedies, his recourse to this Court is premature (Acting Collector of Customs of the Port of Manila vs. Caluag, 20 SCRA 204; Laganapan vs. Asedillo, 154 SCRA 377; National Development Co. vs. Hervilla, 151 SCRA 520). If for no other reason, the petition is dismissible on that score.

WHEREFORE, the petition is dismissed. The writ of preliminary injunction which we issued on May 28, 1976 is hereby lifted and set aside. Costs against petitioner.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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