

THE COMMISSIONER OF CUSTOMS, THE DEPUTY COMMISSIONER OF CUSTOMS, AND THE COLLECTOR OF CUSTOMS OF MANILA, PETITIONERS, VS. HONORABLE FRANCISCO GERONIMO, IN HIS CAPACITY AS JUDGE ...

G.R. No. L-31642. October 28, 1977

Ponente: CASTRO, C.J.

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CASTRO, C.J.:

This case stems from a conflict between the decisions of two revenue officials on two independent separate claims. One was handed down by the petitioner Collector of Customs adjudicating 125 rolls of jusi material to Natividad Velasco, the assignor of the respondent Rafael Castro, Jr.; the other was promulgated by the petitioner Commissioner of Customs ordering the release of 120 rolls, also of jusi material, to Maria Azurin.

In an action for mandamus subsequently filed by the respondent Castro, the Court of First Instance of Manila, Branch XII, presided by the respondent Judge, ruled that since the Collector's decision had already become final, the same was no longer within the reach of the Commissioner to modify or amend, and must accordingly be executed without further interference. The decision of the court below is the subject of this certiorari action brought by the petitioners, all of them top officials of the Bureau of Customs, thru the Solicitor General.

The essential facts are not controverted.

On May 17, 1967, in the course of an inspection visit at the piers of the Port of Manila, then Acting Commissioner of Customs Juan Ponce Enrile noticed a number of packages being mixed with general cargo coming down from the SS "President Wilson." His suspicion aroused, he immediately ordered the segregation of these packages. An inquiry established that these were not carried on the vessel's inward cargo manifest even as they turned out to contain a large quantity of luxury items. Consequently, the Collector of Customs caused the seizure and detention thereof for violation of Section 2530(g) and (m)-5 of the Tariff and Customs Code.

Because of the failure of the authorities to identify the owners of the seized items, notices of seizure proceedings were posted at the bulletin board of the Manila customs - house. On the day of the scheduled hearing, however, no one appeared to claim the goods or part thereof. Thus, on June 23, 1967, the Collector of Customs rendered a decision in Seizure I.D. No. 10747 forfeiting all the seized articles, including 791 rolls of jusi material, in favor of the Republic of the Philippines.

Past two months following the termination of the seizure proceeding, several persons came forward, each with separate pleadings either for relief from the judgment of the Collector or for rehearing. Natividad Velasco filed on August 28, 1967 a petition for relief from the decision of the Collector insofar as it affected certain items which arrived on board the SS "President Wilson," including 125 rolls of jusi material. Maria Azurin, another claimant, filed on August 21, 1967 a separate petition for relief covering 120 rolls also of jusi material which arrived on board the same vessel. Velasco's petition was denied by the Collector on November 9, 1967; her two motions for

reconsideration suffered the same fate. Azurin's petition was likewise denied by the Collector on January 25, 1968.

In the meantime, however, the jusi rolls seized by the Bureau of Customs, which as earlier stated totalled 791, were mixed into one lot such that neither the 125 rolls claimed by Velasco nor the 120 rolls claimed by Azurin could be distinguished from the rest of the heap. On December 4, 1967, 671 out of the 791 rolls were sold at public auction on order of the petitioner Deputy Collector of Customs. The remaining 120 rolls, the subject of the present litigation, were put aside by customs authorities supposedly to cover the contingent claim of Azurin.

On December 13, 1967, Velasco appealed the order denying her petition for relief to the petitioner Commissioner of Customs. After hearing, the latter reversed the Collector's order and remanded Velasco's claim for further proceedings. Following a rehearing of the case, the Collector rendered a decision on June 4, 1968 in Velasco's favor and ordered the release to her of odd items, including 125 rolls of jusi material, upon her payment of the corresponding taxes and charges. In his decision, the Collector set aside the seizure and forfeiture proceeding insofar as it affected Velasco since it appeared from the facts before him that Velasco's importation was covered by a baggage waybill of the carrying vessel and that the importer had filed a formal entry therefor. (While this formal entry turned out later to have grossly understated the size of the importation, the Collector nevertheless in effect ignored the apparent attempt to defraud the Government of duties and taxes.) These actuations, the Collector opined, belied what initially had looked like bad faith on Velasco's part. Immediately upon receipt of the foregoing decision, Velasco filed a waiver of her right to appeal.

Maria Azurin, whose petition for relief had earlier been denied, appealed to the petitioner Commissioner of Customs on February 5, 1968. On June 19, 1968, apparently after having obtained information that the 120 rolls of jusi material remaining in customs' custody were to be disposed of, by virtue of the Collector's decision, in favor of Velasco, Azurin petitioned the Commissioner of Customs to restrain any intended delivery thereof to Velasco. On the following day or on June 20, 1968, the Commissioner addressed an official communication to the Collector, restraining him from effecting release of the remaining rolls of jusi material and ordering him to conduct an investigation for the purpose of determining the real ownership of the disputed rolls.

On October 4, 1968, the respondent Rafael Castro, who earlier had stepped into the shoes of Velasco by virtue of an assignment, brought suit in the Court of First Instance of Manila, presided by the respondent Judge, to restrain the Deputy Commissioner from carrying out his investigation and to enforce the Collector's decision which was favorable to his assignor, Natividad Velasco. Castro's complaint contained a petition for preliminary injunction but this was denied, after hearing, by the respondent Judge. The trial on the merits, however, proceeded accordingly.

Meanwhile, Azurin's appeal respecting her separate claim was given due course by the Commissioner, and on March 19, 1969 the latter rendered a decision holding, in substance, that the Government's seizure of Azurin's goods was void for want of notice and hearing. The Commissioner pronounced the importation legal, it appearing to him that a baggage declaration had been entered therefor by one Nicolas Arcales who accompanied the goods from Hongkong to Manila on board the SS "President Wilson." The Commissioner ruled that Azurin had the right to receive the seized articles upon her payment of the taxes and charges due thereon. Further, the decision, in treating the conflicting interest of the other claimant, Velasco, held that when the customs authorities segregated the 120 rolls of jusi material from those sold at public auction, the same became distinctly earmarked to cover Azurin's claim.

On April 28, 1969, the petitioners moved to dismiss the respondent Castro's complaint on the ground that the same had already been rendered moot and academic by the Commissioner's decision favoring Azurin. This

motion was subsequently denied on July 8, 1969 and, on February 13, 1970, after due trial, the respondent Judge rendered a decision in favor of the respondent Castro, holding that it was beyond the Commissioner's power to recall such rights as had already accrued to Velasco, the respondent Castro's predecessor-in-interest.

The petitioners, all of them officials of the Bureau of Customs, thereupon came to us by certiorari, questioning the trial court's order of July 8, 1969 denying their motion to dismiss, as well as the subsequent decision of February 13, 1970 in favor of the respondent Castro.

The parties raise several issues the core of all of which is, who as between Castro and Azurin is entitled to the delivery of the 120 rolls of jusi material remaining in customs' custody. It behooves us to state, however, that beyond these issues is an unsettling difficulty arising out of the undisputed facts mentioned in the separate decisions of the Collector and the Commissioner in favor of Castro and Azurin, respectively.

The fact is undisputed that the rolls of jusi material imported by Velasco and Azurin (aboard the same vessel) had previously been forfeited in favor of the State by virtue of the Collector's decision in Seizure I.D. No. 10747. It was only after two months from the time the Collector's decision was promulgated that the two, Velasco and Azurin, came forward to place their claims. The inevitable question that is posed under the circumstances is whether the Collector or the Commissioner had the power to set aside the original judgment of forfeiture, the seizure and forfeiture proceeding having been fully and finally terminated, to the prejudice of State-acquired interest therein.

Both Velasco and Azurin, according to the separate decisions in their favor, had duly filled out either a baggage waybill or a baggage declaration to override any imputation (a) that their imported goods were not properly manifested as required by law, or (b) that they were unknown owners that could be sufficiently reached by a mere publicly posted notice of seizure and forfeiture proceedings. These findings of the Collector and the Commissioner strike discordant notes in the basic principles underlying our customs and tariff system.

It is easy to see that inward manifests are required by the State principally for the purpose of informing itself what dutiable goods are on board an incoming foreign vessel. As a general practice, goods of commercial quantity or value, usually covered by the corresponding bills of lading, are entered by the carrying vessel in an inward cargo manifest which is submitted to the port authorities and scrutinized by them. Upon the other hand, baggage belonging to arriving passengers is normally entered in baggage declaration and entry forms prescribed by the Bureau of Customs.

In *U.S. vs. Steamship "Rubi"*,^[1] the word "cargo" was defined by this Court to refer to the "entire lading of the ship which carries it" and includes all goods, wares, merchandise, effects, and indeed everything, of every kind or description, found on board, except such things as are used or intended for use in connection with the management or direction of the vessel and are not intended for delivery at any port of call, and except also, perhaps, 'passengers or immigrants and their baggage.'" While this Court, in the same case, reserved its opinion on whether or not "baggage" is included in the definition of the word "cargo," the subsequent rapid growth of commerce and travel and the recent proliferation of attempts to defraud the Government of duties and taxes have now compelled us to make a definite pronouncement on the matter.

The law itself recognizes a distinction between "cargo" and "baggage" when it treats them separately. Section 1005 of the Tariff and Customs Code (R.A. 1937, as amended) declares that (a) "every vessel from a foreign port must have on board a complete manifest of all her cargo," and (b) "every vessel from a foreign port must have on board complete manifests of passengers and their baggage, in the prescribed form, setting forth their destination and all particulars required by the immigration laws; ..." The distinction is by no means an idle one because the customs processing of passengers' baggage, unlike that of general cargo, must be done with dispatch, first, in

order to avoid unnecessary inconvenience to the passengers accompanying them and, second, because their contents are generally considered to be of little or no taxable importance.

All too often the privilege of "passenger baggage" is abused by unscrupulous "travelers." The word "baggage," as we understand it, refers to "such articles of apparel, ornament, etc., as are in daily use by travelers, for convenience according to the habits or wants of the particular class to which he belongs, either with reference to the immediate necessities or ultimate purpose of the journey only such articles of necessity or convenience as are generally carried by passengers for their personal use." [2] As such, when entered in the baggage declaration and entry forms prescribed by the Bureau of Customs, passengers' baggage is deemed manifested in accordance with law. Dutiable goods of commercial quantity or value cannot, to be sure, be considered passengers' baggage which can pass under the same manifest forms. They fall within the category of general cargo and are required by law to be declared in the inward cargo manifest of the carrying vessel. Every importer whose intentions are no less than legitimate must understand that the law expects him to ascertain that his goods are manifested in the proper form at the pain of forfeiting them altogether and being meted out the penalties prescribed by law.

With regards to the inward cargo manifest, the law specifically requires that the name of the consignee of the goods listed therein be stated. This should furnish the Government the necessary information as to the identity of the persons liable for the payment of duties, taxes and charges. Thus where the name of the consignee of the cargo does not appear on the inward cargo manifest, the Government is within its rights to treat the goods as belonging to unknown owners and, in the event of forfeiture proceedings, proceed against the same after the minimum requirement of notice (posted in the public corridor of the customs house for fifteen days) is accomplished. [3] This system of notification to unknown owners is a reasonable one since it can be fairly assumed that any person exercising the diligence expected of one who imports goods into the country would take every necessary step to effect immediate delivery thereof upon their arrival.

The rule can be summarized thus: where dutiable goods of commercial quantity or value are made to pass under the cover of passengers' baggage or are otherwise not listed in the inward cargo manifest of the carrying vessel, no other conclusion can be drawn, unless there be unmistakable proof of honest mistake, than that the same are being smuggled into the Philippines. Under this circumstance, the forfeiture proceeding concluded by the Collector in favor of the State, after notice to unknown owners is made and when no claim is interposed in the prescribed interim period, attains finality and cannot be the subject of any relief.

We now consider the case at hand.

Velasco had imported into the country, among others, 125 rolls of jusi material, packed in several pieces of luggage, worth approximately P50,000 by her own assignee's estimate. Azurin's importation of 120 rolls should be worth about P48,000, using the same estimated unit price. Undoubtedly, these are not passengers' baggage that could pass under the ordinary baggage declaration and entry forms prescribed by the Bureau of Customs, let alone under a baggage waybill; these goods belong to the general inward cargo of the carrying vessel but were not entered in the inward cargo manifest.

Nowhere in the separate decisions of the Collector and the Commissioner does it appear that Velasco or Azurin ever claimed her "baggage" manifest to have been attended by mistake. On the contrary, each of them had seized upon this form of manifest to claim substantial compliance with customs regulations.

As matters stood, neither the jusi rolls nor the names of their consignees appeared in the inward cargo manifest of the SS "President Wilson." It was thus correct for the Collector to proceed against the goods as he did, forfeiting the same in favor of the State after complying with the minimum requirement of notice to unknown owners.

In sum, it becomes clear from the face of the separate decisions of the Collector and the Commissioner of June 4, 1968 and March 19, 1969, respectively, that these officials were without authority and jurisdiction to strike down the original judgment of forfeiture in Seizure I.D. No. 10747. The seizure and forfeiture proceeding was carried out with proper notice to all concerned, and may not now be set aside to the prejudice of the State whose rights had already firmly accrued thereon.

The facts mentioned in the foregoing discussion were all available to the respondent Judge for his scrutiny. It was his duty to disregard the decision of the Collector of June 4, 1968 in favor of the respondent Castro, the same being a patent nullity. To this extent, he gravely abused his discretion.

In view of all the foregoing, we see no point in resolving the other issues presented.

ACCORDINGLY, the decision of the respondent Judge dated February 13, 1970 is set aside, and the petitioners, all of them officials of the Bureau of Customs, are hereby directed to dispose of the remaining 120 rolls of jusi material in their custody as goods finally forfeited in favor of the State.

No pronouncement as to costs.

Fernando, Teehankee, Barredo, Makasiar, Antonio, Muñoz Palma, Aquino, Concepcion, Jr., Martin, Santos, Fernandez, and Guerrero, JJ., concur.

[1] 32 Phil. 228, 235.

[2] Bouvier's Law Dictionary, Vol. 1, p. 305.

[3] Section 2304, Tariff and Customs Code.

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