

C.F. SHARP & COMPANY, INC., PETITIONER, VS. COMMISSIONER OF CUSTOMS, RESPONDENT.

G.R. No. L-23803. February 26, 1968

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

At or about four thirty in the morning of April 1, 1962, a water patrol of the Bureau of Customs apprehended M/L Cheton while it was passing through the breakwater of Manila loaded with 1,865 cartons of untaxed blue seal cigarettes. The vessel was seized for violation of Section 2530(a) of the Tariff and Customs Code and immediately thereafter was subjected to forfeiture proceedings.

During the pendency of the case, the Law Division of The Bureau of Customs recommended, in its report to the Collector of Customs of the Port of Manila, the imposition of a fine of P1,000 instead of forfeiture on the ground that the incident was the first offense.

On June 11, 1962, after hearing the parties, the Collector of Customs of the Port of Manila rendered a decision imposing a fine of P10,000 instead of P1,000 as recommended by the Law Division, in order to give force and effect to the socio-economic program of the then President Diosdado Macapagal.

M/L Cheton's owner, C.F. Sharp & Co., Inc., moved for reconsideration, which was denied. It appealed to the Commissioner of Customs who modified the decision of the Collector by ordering the forfeiture of the vessel instead of imposing only a fine in the amount of P10,000. A motion for reconsideration was filed but the same was subsequently denied. Thereafter, C.F. Sharp & Co., Inc., appealed to the Court of Tax Appeals.

The Court of Tax Appeals heard the parties and rendered the following judgment:

"Finding no reversible error in the decision appealed from, the same is hereby affirmed, with costs against petitioner."

A motion for reconsideration failed, hence this appeal.

The only issue in this case is whether or not M/L Cheton is subject to forfeiture in favor of the government in accordance with paragraph a., Section 2530 of the Tariff and Customs Code.

It is contended that the M/L Cheton should not be ordered forfeited because it was loaded with untaxed foreign made cigarettes with duress upon its patron and crew; and, that it was not use to transport said cigarettes from a foreign port to any port or place in the Philippines.

The patron and the crew of ML Cheton executed affidavits to the effect that at four o'clock in the morning of April 1, 1962, the M/L Cheton was intercepted on its way from the Pasig River to the Manila Yacht Club by four armed men riding in a motorized banca who posed as employees of the Manila Port Service; that they were ordered to proceed to pier 13 of the South Harbor where the armed men hurriedly loaded the cigarettes in question; that after the loading, they were ordered to proceed towards Cavite; that before reaching the breakwater,

the patron sighted a customs patrol boat towards which he directed the course of M/L Cheton; that when they were along side the customs patrol boat they informed the customs agents of their cargo; and that the four armed men and their banca just vanished from the scene.

The said written statements regarding duress were not given credence by the Bureau of Customs and by the Court of Tax Appeals. Appellate Courts usually do not interfere with the lower court's findings as to the credibility of witnesses and other evidence for credibility is best left with the trial court - the Court of Tax Appeals - and the Bureau of Customs which had the opportunity of observing the witnesses, in the absence of a showing that some fact or circumstance of weight and influence in the record was overlooked or misapplied, or its significance misunderstood by the court.[1] We see no reason to alter the finding of the Court of Tax Appeals on this point.

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.

Paragraph a. of section 2530 of the Tariff and Customs Code states:

"SEC. 2530. Property Subject to Forfeiture Under Tariff and Customs Laws. - Any vessel or aircraft cargo, 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 port 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."

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 aforesaid 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. By way of comment, on petitioner's stand, it would be absurd to require the Government to prove that a vessel was engaged in smuggling, after it has already been caught red-handed, that is, loaded with smuggled goods.

With respect to petitioner's plea that it was deprived of its property without due process in that the Commissioner of Customs rendered his decision without conducting a formal hearing, suffice it to state that Section 2313 of the Tariff and Customs Code, quoted below:

"SEC. 2313. Review by Commissioner. - The person aggrieved by the decisions or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen days after notification in writing by the Collector of his action or decision give written notice to the Collector of his desire to have the matter reviewed by the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision."

Does not require the Commissioner of Customs to hold a formal hearing. His duty is to approve, modify or reverse the decision of the Collector of Customs on the basis of the records, papers and evidence presented before the latter. Moreover, the proceedings had before the Court of Tax Appeals was a trial de novo[2] and if petitioner

desired to present evidence in addition to those already presented before the Collector of Customs, it could have done so.

Petitioner further urges Us to resolve in its favor the alleged "doubt" in this case. The so-called "doubt" is that allegedly produced by the acquittal of the patron and crew of M/L Cheton from criminal charges in connection with the incident at bar. Insofar as the evidence adduced in this case is concerned there is no doubt that M/L Cheton was used in smuggling for which it should suffer the penalty of forfeiture pursuant to law. The result of criminal proceedings in a separate case before a different tribunal, being dependent upon the evidence adduced therein, would not necessarily influence the judgment in the instant case.

WHEREFORE, the judgment appealed from is hereby affirmed. With costs against petitioner.

SO ORDERED.

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

[1] U.S. v. Ambrosio, 17 Phil. 295; U.S. v. Estrada, 24 Phil 401; People v. Asmawil, L-18761, March 31, 1965.

[2] Sec. 7 Rule 16, Rules of Court of Tax Appeals. See Montejo, COURT OF TAX APPEALS ACT ANNOTATED, p. 141.

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