

ANDRES E. LAZARO, PETITIONER, VS. THE COMMISSIONER OF CUSTOMS, RESPONDENT.

G.R. Nos. L-22511 & L-22513. May 16, 1966

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On August 24, 1954, three (3) packages of toothpicks, one (1) package of pomade, and one (1) package of dried fish fins arrived in Manila on board S/S "HERVAR" consigned to Andres E. Lazaro.

Since the above shipment was not covered by any import license nor release certificate from the Central Bank of the Philippines as required by its Circulars Nos. 44 and AS it was forfeited by the Commissioner of Customs not only under the authority of said circulars but also in relation to Section 1363 (f) of the Revised Administrative Code. The shipment was, however, released and delivered to petitioner under Surety Bond No. 024 in the amount of P3,702.00 executed by the Pioneer Insurance & Surety Corporation without prejudice to the result of the seizure proceedings.

On April 21, 1955, the Collector of Customs rendered judgment in said seizure proceedings declaring the bond forfeited and ordering petitioner, as well as the surety corporation, to pay jointly and severally said amount of P3,702.00 to the Bureau of Customs within 30 days from receipt of a copy of the decision in accordance with the terms contained in the surety bond. This judgment was affirmed by the Commissioner of Customs on November 3, 1959.

Petitioner filed a petition for review with the Court of Tax Appeals, and after proper hearing, said court rendered decision affirming the judgment of the Commissioner of Customs, with costs against petitioner. Petitioner brought this case for review before this Court.

Petitioner claims that the Court of Tax Appeals erred in declaring¹ the forfeiture of the articles in question merely because it violates Central Bank Circulars Nos. 44 and 45 considering¹ that said circulars do not provide for the penalty of forfeiture in case of violation of their provisions. But this question is now a settled matter in view of the several decisions rendered by this Court sanctioning the forfeiture of merchandise imported in violation of said Circulars Nos. 44 and 45. This Court said that these circulars should be correlated with Section 1863 of the Revised Administrative Code which authorizes the forfeiture of any merchandise of prohibited importation or of any the importation of which is effected contrary to law, as may be gleaned from the following portion of our decision:

"As already stated, Circulars Nos. 44 and 45 were issued by the Monetary Board within the scope of its powers. They were published in the Official Gazette in June, 1953. Appellant failed to present to the Commissioner of Customs release certificates issued by the Central Bank or its duly authorized agent banks for the importation in question. The Commissioner of Customs may, therefore, seize them and order their forfeiture under the aforequoted provisions of the Revised Administrative Code. It is true that neither of the Circulars provide for the penalty of forfeiture. But since the importations in question were made without the

necessary import license issued by the Monetary Board pursuant to Circular No. 45 and the release certificates issued by the Central Bank or its authorized agent bank in the prescribed form pursuant to Circular No. 44, they fall within the class of 'merchandise of prohibited importation' or merchandise 'the importation * * * of which is effected * * * contrary to law' that the Commissioner of Customs may seize and order forfeited. To sustain the appellant's theory of the case would render nugatory the aim and purpose of the law when it authorizes the Central Bank to temporarily suspend or restrict the sale of foreign exchange to licensing during an exchange crisis in order to protect the international reserve and to give the Monetary Board and the Government time in which to take constructive measures to combat such crisis." (Pascual vs. The Commissioner of Customs, 105 Phil. 1939; See also Venancio Tong Tek vs. Commissioner of Customs, 105 Phil., 1071; People vs. Que Po Lay, 50 Off. Gaz., 4800)

The merchandise in question may not be one of prohibited importation within the meaning of the law, but it cannot be denied that it is an importation that was effected contrary to law, and in this sense it is subject to forfeiture. Petitioner loses sight of the fact that the words "customs law" include not only the provisions of said law proper but also any regulation made pursuant thereto which is subject to enforcement by the Bureau of Customs. Central Bank Circulars Nos. 44 and 45, being regulations issued pursuant to law and enforceable by the Bureau of Customs, form part of said customs law. Their violation, therefore, comes within the purview of Section 1363 (f) of the Revised Administrative Code.

Petitioner also contends that the merchandise in question cannot be legally forfeited under Central Bank Circulars Nos. 44 and 45 because these circulars have already been repealed by Central Bank Circular 133. This contention is without merit. Central Bank Circular No. 133 has not exactly repealed Central Bank Circulars Nos. 44 and 45 but rather it reenacted them when it provided therein that all existing regulations not inconsistent with the circular are deemed incorporated and made integral parts thereof by reference. And it cannot be disputed that both Central Bank Circulars Nos. 44 and 45 and Central Bank Circular No. 133 have a common purpose,—which is to require the presentation of a release certification from the Central Bank before any importation may be made to the Philippines. Evidently, the purpose of these circulars is to keep a tab of the volume of imports that come into the Philippines in order to enable the Central Bank to make a survey and study of the appropriate measures that may be adopted to remedy the long-drawn financial crisis in the country.

Even assuming that Central Bank Circular No. 133 had the effect of repealing impliedly Central Bank Circulars Nos. 44 and 45, such repeal, however, cannot have the effect of abating the forfeiture case instituted against petitioner for the simple reason that forfeiture proceedings are civil in nature and not criminal. In this sense, the repeal cannot be given any retroactive effect.

"* * * Petitioner contends that upon the expiration of Republic Act No. 650 the Commissioner of Customs lost jurisdiction over the case and therefore his decision was null and void. This contention is untenable. It is a settled rule that a court, be it judicial or administrative, that has acquired jurisdiction over a case, retains it even after the expiration of the law governing the case. Herein, we are concerned with the effect of the expiration of a law, not with the abrogation of a law, and we hold the view that once the Commissioner of Customs has acquired jurisdiction over the case, the mere expiration of Republic Act No. 650 will not divest him of his jurisdiction thereon duly acquired while said law was still in force. In other words we believe that despite the expiration of Republic Act No. 650 the Commissioner of Customs retained his jurisdiction over the case and could continue to take cognizance thereof until its final determination, for the main question brought in by the appeal from the decision of the Collector of Customs was the legality or illegality of the decision of the Collector of Customs, and that question could not have been abated by the mere expiration of Republic Act No. 650. We firmly believe that the expiration of Republic Act No. 650 could not have produced the effect (1) of declaring legal the importation of the cotton counterpanes which were illegally imported, and (2) of declaring the seizure and forfeiture ordered by the Collector of Customs illegal or null and void; in other words,, it could not have the effect of annulling or setting aside the decision of the Collector of Customs which

was rendered while the law was in force and which should stand until it is revoked by the appellate tribunal. *

* *" (Roxas vs. Sayoc, 100 Phil., 448)

The alleged implied repeal of Circular No. 45 by Republic No. 1410 is without merit for there is nothing in Section 6 of Republic Act No. 1410 which could be construed as having repealed Circular No. 45. But even if we assume that said Act had the effect of impliedly repealing the aforesaid Circular still such repeal cannot also abate the forfeiture case against petitioner for the simple reason that Republic Act No. 1410 cannot be given a retroactive effect so as to defeat any act or transaction effected or undertaken during the life of Circular No. 45. The authority we quoted in the preceding paragraph equally applies to this instance. Indeed, under Article 4 of the new Civil Code, "Laws shall have no retroactive effect, unless the contrary is provided." Here, there is no such contrary provision.

Finally, petitioner questions the correctness of the appraisal of the imported articles made by the Commissioner of Customs insinuating that he should not have included as part of the appraised value an estimated profit of 30% of the amount representing the landed cost as well as the amount representing duties, taxes and other charges. But, aside from the fact that this question is being raised for the first time, we are of the opinion that the appraisal made by respondent is correct it having been made in accordance with the authority given him by Section 1377 of the Revised Administrative Code. This appraisal, moreover, is presumed to be correct unless the contrary is proven by the importer.^[1] This was not done.

Wherefore, the decision appealed from is affirmed. Costs against petitioner.

Bengzon, C.J., Concepcion, Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

Reyes, J.B.L., concurs in the result.

Decision affirmed.

[1] Lutz & Co. vs. Collector of Customs, 8 Phil. 492; Lim Quim vs. Insular Collector of Customs, 23 Phil., 509; Lambert & Co. vs. Insular Collector of Customs, 25 Phil., 159; Behn, Meyer & Co. vs. Collector of Customs, 26 Phil., 647; Kuenzle & Streiff vs. Collector of Customs, 31 Phil., 465; Te Chin Boo vs. Insular Collector of Customs, 32 Phil., 76; E. Viegelmann & Co. vs. Insular Collector of Customs, 37 Phil., 10; Collector of Insular of Internal Revenue vs. Reyes, G. R. Nos. L-11534 & L-11558, November 25, 1958.

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