

JUAN DIOSAMITO ET AL., PLAINTIFF-APPELLANTS, VS. BENJAMIN BALANQUE, ET AL., DEFENDANT-APPELLEES.*G.R. No. L-30734. July 28, 1969*

Ponente: MAKALINTAL, J.

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Appeal from the order of the Court of First Instance of Quezon City dismissing the case for lack of jurisdiction.

On the morning of November 12, 1962 in Aringay, La Union, a joint team of Philippine Constabulary and local police apprehended two trucks loaded with 666 cases of assorted untaxed "blue seal" cigarettes. On the same date the two trucks were impounded in the PC compound under the custody of the Provincial Commander while the Provincial Fiscal filed an information in the Court of First Instance of La Union against the drivers for violation of the Tariff and Customs Code. On November 19, 1962 the Collector of Customs issued a Customs Warrant of Seizure and Detention to the Provincial Commander with instruction to detain, hold and/or keep the said trucks in custody and instituted Seizure-Forfeiture Proceedings Identification No. 28/62 pur-suant to Section 2530, paragraphs (f) and (k), of the Tariff and Customs Code, which provide as follows:

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

x x x x x x x x

"f. Any article of prohibited importation or exportation, the importation or exportation of which is effected or attempted contrary to law, and all other articles which, in the opinion of the Collector, have been used, are or were intended to be used as instruments in the importation or exportation of the former.

x x x x x x x x

"k. Any beast actually being used for the conveyance of articles subject to forfeiture under the customs and tariff laws, with its equipage or trappings, and any vehicle similarly used, together with its equipage and appurtenances, including the beast, team or other motive power drawing or propelling the same; but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, or his agent in charge thereof at the time, has no knowledge of the unlawful act."

On December 7, 1962, during the pendency of Seizure-Forfeiture Proceedings Identification No. 28/62, the plain-tiffs, claiming to be the owners of one of the trucks (identified in the complaint) filed a suit in the court a quo, with a prayer for damages. The Collector of Customs, however, was not included as party-defendant. The court a quo ordered the release of the truck to the plaintiffs upon a bond of P10,000.

On December 12, 1962 the Collector of Customs, thru the Office of the Solicitor General, filed an urgent motion to intervene, with the answer in intervention attached thereto. The motion was granted and the answer admitted. The Collector of Customs prayed for the dismissal of the complaint for lack of jurisdiction and failure to state a cause of action. The Provincial Commander, likewise thru the Office of the Solicitor General, filed an answer

adopting that of the Collector of Customs. Upon motion of the defendant and the intervenor, a preliminary hearing was held on the affirmative defense of lack of jurisdiction. On June 28, 1963 the court a quo issued an order the dispositive portion of which reads:

"Wherefore, the above-entitled case is hereby ordered DISMISSED, for lack of jurisdiction, without special pronouncement as to costs.

Consequently, the order for the seizure of personal property issued by this Court is hereby set aside, and since no return of the service thereof has been submitted to the Court it is hereby ordered recalled and counsel for the plaintiffs given a period of ten (10) days from receipt hereof within which to return the same to the Court."

Both parties moved to reconsider. The Solicitor General's motion was limited to the dispositive portion of the order "so as to include therein a directive that the plaintiffs should forthwith return to the Collector of Customs for San Fernando the truck subject matter of the complaint to be dealt with under the Tariff and Customs Code." In an order dated August 10, 1963, the trial court granted the Solicitor General's motion and denied that of the plaintiffs.

The plaintiffs appealed to the Court of Appeals, which subsequently certified the case to us, the only issue being whether or not the court a quo has jurisdiction over the subject-matter of the case.

The issue presented is not one of first impression. In *Pacis vs. Averia*, L-22526, November 29, 1966 and in *De Joya, et al., vs. David, et al.*, L-23504, December 29, 1967, we said:

"At issue is the jurisdiction of the Court of First Instance of Cavite to entertain Civil Case No. TM-114, and the existence of therein plaintiff's cause of action.

x x x This original jurisdiction of the Court of First Instance, when exercised in an action for recovery of personal property which is a subject of a forfeiture proceeding in the Bureau of Customs, tends to encroach upon, and to render futile, the jurisdiction of the Collector of Customs in seizure and forfeiture proceedings. x x x

"Should Section 44(c) of the Judiciary Act of 1948 give way to the provisions of the Tariff and Customs Code, or vice versa? In our opinion, in this particular case, the Court of First Instance should yield to the jurisdiction of the Collector of Customs. The jurisdiction of the Collector of Customs is provided for in Republic Act 1937 which took effect on July 1, 1957, much later than the Judiciary Act of 1948. It is axiomatic that a later law prevails over a prior statute. Moreover, on grounds of public policy, it is more reasonable to conclude that the legislators intended to divest the Court of First Instance of the prerogative to replevin a property which is a subject of a seizure and forfeiture proceedings for violation of the Tariff and Customs Code. Otherwise, actions for forfeiture or property for violation of Customs laws could easily be undermined by the simple device of replevin.

"Furthermore Section 2303 of the Tariff and Customs Code requires the Collector of Customs to give to the owner of the property sought to be forfeited, written notice of the seizure and to give him the opportunity to be heard in his defense. This provision clearly indicates the intention of the law to confine in the Bureau of Customs the determination of all questions affecting the disposal of property proceeded against in a seizure and forfeiture case. The judicial recourse of the property owner is not in the Court of First Instance but in the Court of Tax Appeals, and only after exhausting administrative remedies in the Bureau of Customs."

Appellants argue that the truck in question could not be the subject of seizure, confiscation or forfeiture in the absence of any evidence showing that the cigarettes loaded therein had been imported illegally. This argument is gratuitous and begs the question at issue before the Collector of Customs. Prima facie, at least, the cigarettes that were loaded on the truck in question when it was apprehended, being of the "blue seal" or untaxed category, had been imported illegally; and it was before the Collector of Customs in the seizure-forfeiture proceeding he had

instituted that evidence to the contrary should be adduced by the plaintiffs. And as may be gathered from the pleadings, that administrative proceeding had been set for hearing twice with due notice to the parties, but no actual hearing had yet been conducted when the instant case was instituted in the court a quo. The law grants the Collector of Customs sufficient latitude in determining whether or not a certain article is subject to seizure or forfeiture (Sec. 2530, pars. (f) and (k), Tariff and Customs Code of 1957, *supra*); and his decision on the matter is appealable to the Commissioner of Customs and then to the Court of Tax Appeals, not to the Court of First Instance.

WHEREFORE, the order appealed from is affirmed, with costs against appellants.

Concepcion, C.J., Reyes, J.B.L., Dizon, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

Zaldivar, J., did not take part.

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