

ILLUH ASAALI, HATIB ABDURASID, INGKOH BANTALA, BASOK INGKIN, AND MOHAMMAD BANTALLA, PETITIONERS, VS. THE COMMISSIONER OF CUSTOMS, RESPONDENT.*G.R. No. L-24170. December 16, 1968*

Ponente: FERNANDO, J.

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The policy relentlessly adhered to and unhesitatingly pursued to minimize, if not to do away entirely, with the evil and corruption that smuggling brings in its wake would be frustrated and set at naught if the action taken by respondent Commissioner of Customs in this case, as affirmed by the Court of Tax Appeals, were to be set aside and this appeal from the decision of the latter were to succeed. Fortunately, the controlling principles of law do not call for a contrary conclusion. It cannot be otherwise if the legitimate authority vested in the government were not to be reduced to futility and impotence in the face of an admittedly serious malady, that at times has assumed epidemic proportions.

The principal question raised by petitioners, owners of five sailing vessels and the cargo loaded therein declared forfeited by respondent Commissioner of Customs for smuggling, is the validity of their interception and seizure by customs officials on the high seas, the contention being raised that importation had not yet begun and that the seizure was effected outside our territorial waters.

Why such a plea could not be given the least credence without doing violence to common sense and placing the law in disrepute would be apparent from a statement of the case and the findings of facts as set forth in the decision now under review, of the Court of Tax Appeals, dated November 19, 1964, the opinion being penned by the late Associate Judge Augusto M. Luciano.

His opinion starts thus: "This is an appeal from the decision of the Acting Commissioner of Customs in Customs Case No. 113, dated September 26, 1961, (Jolo Seizure Identification Cases Nos. 38, 39, 40, 41 & 42) decreeing the forfeiture of five (5) sailing vessels (kumpits) named 'Iroc-Iroc,' 'Lahat-lahat,' 'Liberal Wing III,' 'Sulu Area Command,' and 'Business,' with their respective cargoes of blue seal cigarettes and rattan chairs, for violation of Section 1363(a) of the Revised Administrative Code and Section 20 of Republic Act No. 426 in relation with Section 1363(f) of the Revised Administrative Code." [1]

The facts according to the above opinion "are not controverted." Thus: "It appears that on September 10, 1950, at about noon time, a customs patrol team on board Patrol Boat ST-23 intercepted the five (5) sailing vessels in question on the high seas, between British North Borneo and Sulu while they were heading towards Tawi-tawi, Sulu. After ordering the vessels to stop, the customs officers boarded and found on board, 181 cases of 'Herald' cigarettes, 9 cases of 'Camel' cigarettes, and some pieces of rattan chairs. The sailing vessels are all of Philippine registry, owned and manned by Filipino residents of Sulu, and of less than thirty (30) tons burden. They came from Sandakan, British North Borneo, but did not possess any permit from the Commissioner of Customs to engage in the importation of merchandise into any port of the Sulu sea, as required by Section 1363(a) of the

Revised Administrative Code. Their cargoes were not covered by the required import license under Republic Act No. 426, otherwise known as the Import Control Law."[2]

Respondent Commissioner of Customs, as noted at the outset, affirmed the decision rendered by the Collector of Customs of Jolo, who found cause for forfeiture under the law of the vessels and the cargo contained therein. He was, as also already made known, sustained by the Court of Tax Appeals. Hence this petition for review.

The first two errors assigned by petitioners would impugn the jurisdiction of the Bureau of Customs to institute seizure proceedings and thereafter to declare the forfeiture of the vessels in question and their cargo. They would justify their stand thus: "In the light of the fact that the vessels involved with the articles laden therein were apprehended and seized on the high seas, beyond the territorial waters of the Philippines, the said vessels could not have touched any place or port in the Philippines, whether a port or place of entry or not, consequently, the said vessels could not have been engaged in the importation of the articles laden therein into any Philippine port or place, whether a port or place of entry or not, to have incurred the liability of forfeiture under Section 1363(a) of the Revised Administrative Code."[3]

Such a contention was advanced by petitioners before the Court of Tax Appeals. It met the repudiation that it deserved. Thus "We perfectly see the point of the petitioners but considering the circumstances surrounding the apprehension of the vessels in question, we believe that Section 1363(a) of the Revised Administrative Code should be applied to the case at bar. It has been established that the five vessels came from Sandakan, British North Borneo, a foreign port, and when intercepted, all of them were heading towards Tawi-tawi, a domestic port within the Sulu sea. Laden with foreign manu-factured cigarettes, they did not possess the import license required by Republic Act No. 426, nor did they carry a permit from the Commissioner of Customs to engage in importation into any part in the Sulu sea. Their course announced loudly their intention not merely to skirt along the territorial boundary of the Philippines but to come within our limits and land some-where in Tawi-tawi towards which their prows were pointed. As a matter of fact, they were about to cross our aquatic boundary but for the intervention of a customs patrol which, from all appear-ances, was more than eager to accomplish its mission. "[4]

The sense of realism and the vigorous language employed by the late Judge Luciano in rejecting such a plea deserve to be quoted. Thus: "To entertain even for a moment the thought that these vessels were probably not bound for a Philippine port would be too much a concession even for a simpleton or a perennial optimist. It is quite irrational for Filipino sailors manning five Philippine vessels to sneak out of the Philippines and go to British North Borneo, and come a long way back laden with highly taxable goods only to turn about upon reaching the brink of our territorial waters and head for another foreign port."[5]

1. We find no plausible reason not to accept in its entirety such a conclusion reached by the Court of Tax Appeals. Nor, even if the persuasive element in the above view were not so overwhelming, could we alter the decisive facts as found by it. For it is now beyond question that its finding, if supported by substantial evidence, binds us, only questions of law being for us to resolve. Where the issue raised belongs to the former category, we lack the power of review.[6]

Moreover, for understandable reasons, we feel extreme reluctance to substitute our own discretion for that of the Court of Tax Appeals in its appreciation of the relevant facts and its appraisal of their significance. As we had occasion to state in a relatively recent decision: "Nor as a matter of principle is it advisable for this Court to set aside the conclusion reached by an agency such as the Court a Tax Appeals which is, by the very nature of its function, dedicated exclusively to the study and consideration of tax problems and has necessarily developed an expertise on the subject, * * *, there has been an abuse or improvident exercise of its authority."[7]

2. We thus could rest our decision affirming that of the Court of Tax Appeals on the above consideration. It might not be amiss however to devote some degree of attention to the legal points raised in the above two assignment of errors, discussed jointly by petitioners-appellants, alleging the absence of jurisdiction, the deprivation of property without due process of law and the abatement of liability consequent upon the repeal of Republic Act No. 426. Not one of the principles of law relied upon suffices to call for reversal of the action taken by the re-spondent Commissioner of Customs, even if the facts presented a situation less conclusive against the pretension of petitioners-appellants.

From the apprehension and seizure of the vessels in question on the high seas beyond the territorial waters of the Philippines, the absence of jurisdiction of Commissioner of Customs is predicated. Such contention of petitioners-appellants is without merit.

It is unquestioned that all vessels seized are of Philippine registry. The Revised Penal Code leaves no doubt as to its applicability and enforceability not only within the Philippines, its interior waters and maritime zone, but also outside of its jurisdiction against those committing offense while on a Philippine ship * * *. [8] The principle of law that sustains the validity of such a provision equally supplies a firm foundation for the seizure of the five sailing vessels found thereafter to have violated the applicable provisions of the Revised Administrative Code. [9]

Moreover, it is a well settled doctrine of International Law that goes back to Chief Justice Marshall's opinion in *Church v. Hubbart*, [10] an 1804 decision, that a state has the right to protect itself and its revenues, a right not limited to its own territory but extending to the high seas. In the language of Chief Justice Marshall: "The authority of a nation within its own territory is absolute and exclusive. The seizure of a vessel within the range of its cannon by a foreign force is an invasion of that territory, and is a hostile act which it is its duty to repel. But its power to secure itself from injury may certainly be exercised beyond the limits of its territory."

The question asked in the brief of petitioners-appellants as to whether the seizure of the vessels in question and the cargoes on the high seas and thus beyond the territorial waters of the Philippines was legal must be answered in the affirmative.

4. The next question raised is the alleged denial of due process arising from such forfeiture and seizure. The argument on the alleged lack of validity of the action taken by the Commissioner of Customs is made to rest on the fact that the alleged offense imputed to petitioners-appellants is a violation of Section 1363(a) and not Section 1363 (f). The title of Section 1363 is clear. "Property subject to forfeiture under customs laws." The first subsection thereof, (a), covers any vessel including cargo unlawfully engaged in the importation of merchandise except a port of entry. Subsection (f) speaks of any merchandise of any prohibited importation, the importation of which is effected or attempted contrary to law and all other merchandise which in the opinion of the Collector of Customs have been used or were intended to be used as instrument in the importation or exportation of the former.

From the above recital of the legal provisions relied upon, it would appear most clearly that the due process question raised is insubstantial. Certainly, the facts on which the seizure was based were not unknown to petitioners-appellants. On those facts the liability of the vessels and merchandise under the above terms of the statute would appear to be undeniable. The action taken then by the Commissioner of Customs was in accordance with law.

How could there be a denial of due process? There was nothing arbitrary about the manner in which such seizure and forfeiture were effected. The right to a hearing of petitioners-appellants was respected. They could not have been unaware of what they were doing. It would be an affront to reason if under the above circumstances they

could be allowed to raise in all seriousness a due process question. Such a constitutional guaranty, basic and fundamental, certainly should not be allowed to lend itself as an instrument for escaping a liability arising from one's own nefarious acts.

5. Petitioners-appellants would further assail the validity of the action taken by the respondent Commissioner of Customs by the plea that the repeal of Republic Act No. 426 abated what-ever liability could have been incurred there under. This argument raised before the Court of Tax Appeals was correctly held devoid of any persuasive force. The decision under review cited our opinion in *Golay-Buchel & Cie v. Commissioner of Customs*[11] to the effect that the expiration of the Import Control Law "did not produce the effect of declaring legal the importation of goods which were illegally imported and the seizure and forfeiture thereof as ordered by the Collector of Customs illegal or null and void."

Roxas v. Sayoc[12] announced that principle earlier. Thus: "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."

As late as 1965, in *Bombay Dept. Store v. Commissioner of Customs*,[13] we had occasion to reaffirm the doctrine in the above two decisions, the present Chief Justice, speaking for the Court, stating that such expiration of the period of effectivity of Republic Act No. 650 "did not have the effect of depriving the Commissioner of Customs of the jurisdiction, acquired by him prior thereto, to act on cases of forfeiture pending before him, which are in the nature of proceedings in rem * * *."

It is thus most evident that the Court of Tax Appeals had not in any wise refused to adhere faithfully to controlling legal principles when it sustained the action taken by respondent Commissioner of Customs. It would be a reproach and a reflection on the law if on the facts as they had been shown to exist, the seizure and forfeiture of the vessels and cargo in question were to be characterized as outside the legal competence of our government and violative of the constitutional rights of petitioners-appellants. Fortunately, as had been made clear above, that would be an undeserved reflection and an unwarranted reproach. The vigor of the war against smuggling must not be hampered by a misreading of inter-national law concepts and a misplaced reliance on a constitutional guaranty that has not in any wise been infringed.

WHEREFORE, the decision of respondent Court of Tax Appeals of November 19, 1964, is affirmed. With costs against petitioners-appellants.

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

[1] Decision of the Court of Tax Appeals, Brief for Petitioners-Appellants, pp. I-II

[2] Ibid, p. II.

[3] Brief for Petitioners-Appellants, pp. 9-10.

[4] Decision of the Court of Tax Appeals, Brief for Petitioners-Appellants, pp. VIII-IX.

[5] Ibid, p. IX.

[6] Cf. Sanchez v. Commissioner of Customs, 102 Phil. 37 (1957); Castro v. Collector of Internal Revenue, L-12174, April 26, 1962; Yupangco & Sons, Inc. v. Commissioner of Customs, L-22259, Jan. 19, 1966; Commissioner of Internal Revenue v. Priscilla Estate, L-18282, May 29, 1964; Phil. Guaranty Co. v. Commissioner of Internal Revenue, L-22074, Sept. 6, 1965; Republic v. Razon, L-17462, May 24, 1967; Balbas v. Domingo, L-19804, Oct. 23, 1967.

[7] Alhambra Cigar v. Commissioner of Internal Revenue, L-23226, Nov. 28, 1967.

[8] Article 2, Revised Penal Code (Act No. 3815).

[9] Section 1363 (a) and (f).

[10] 2 Cranch 187, 234.

[11] 106 Phil. 777, 783 (1959).

[12] 100 Phil. 448, 452-453 (1956).

[13] L-20460, September 30.

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