

ELICIDAD VIERNEZA, PETITIONERS, VS. THE COMMISSIONER OF CUSTOMS, RESPONDENT.

G.R. No. L-24348. July 30, 1968

Ponente: REYES, J. B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2cfacf434f63/>

REYES, J. B.L., J.:

An appeal from the decision of the Court of Tax Appeals (C. T. A. Case No. 762) sustaining a decision of respondent Commissioner of Customs forfeiting, in favor of the Government, 760 cartons of Chesterfield and Came' cigarettes with blue seals but without internal revenue strip stamps.

Reproduced below are the undisputed findings of facts in the decision' appealed from:

"At about 2:00 a. m. on September 16, 1957, the M/V 'Legaspi' a coastwise vessel coming from Jolo docked at the port of Cebu on her way to Manila. Acting upon a confidential telegraphic report from an informer in Jolo that the said vessel was carrying a substantial quantity of smuggled foreign cigarettes, the Customs authorities of the port of Cebu conducted a search of the vessel which eventually led to the discovery of eight cases containing SIX HUNDRED FIFTY (650) CARTONS of Chesterfield cigarettes and ONE HUNDRED TEN (110) CARTONS of Camel cigarettes without the required Internal 'Revenue strip stamps. Upon investigation it was also discovered that the subject merchandise was covered by Bill of Lading No. 24-A (Exhibit B) with 'personal belong-ings' as its declaration and correspondingly entered into the manifest of the vessel likewise with 'personal belongings' as the noted description, and with Sultan Pula of Jolo as the consignor and a certain. Carlos Valdez as the consignee in Manila. Upon further in-vestigation, however, it was found that a woman pas-senger was accompanying the subject merchandise appearing later to be Mrs. Felicidad Vierendeza, the present claimant, who all the while holds the bill of lading. It should be noted that when Mrs. Vierendeza was questioned during the course of the search she disclaimed under oath (Exhibit H) ownership of the merchandise.

"Believing that there is a strong evidence of violations of Customs laws, the Collector of Customs of Cebu seized the merchandise and instituted the forfeiture proceedings for violation of Section 2530 (f), (g) and (m)-4 of the Tariff and Customs Code of the Philippines and Section 174 of the Internal Revenue Code. After complying with the procedural requirements of the law, the Collector of Customs of Cebu conducted a hearing of the case x x x (and) on February 5, 1958, x x x rendered his decision forfeiting the subject merchandise in favor of the Government x x x (pp. 42-43, Customs records.)

"The claimant of the merchandise, petitioner herein, appealed in due time from the decision of the Collector of Customs of Cebu to the Commissioner of Customs who affirmed the decision of the Collector, with the modification that the forfeiture was sustained, among others, under paragraph (m-1) of Section 2530 of the Tariff and Customs Code instead of under paragraph (m-4) of the same section. x x x."

Elevated to the Court of Tax Appeals, the decision of respondent Commissioner of Customs was affirmed, the said court " (f)inding that the Collector of Customs of Cebu had jurisdiction to order the seizure and forfeiture of said cigarettes and that the forfeiture of the same is in accordance with Section 2530 (f) of the Tariff and Customs Code". Thus, petitioner, who claimed to have merely purchased the cigarettes in the open market in Jolo); now

turns to us for relief, advancing the following assignment of errors:

"1. The Court of Tax Appeals erred in affirming the decision of the respondent finding that the Collector of Customs for the port of Cebu acted with jurisdiction in instituting seizure proceedings against the merchandise herein involved.

"2. The Court of Tax Appeals erred in affirming the decision of the respondent finding that the merchandise involved are liable to the penalty of forfeiture (under Section 2530 (f) of the Tariff and Customs Code).

"3. The Court of Tax Appeals erred in not finding that the merchandise involved which were seized and libeled for alleged violation of particular provisions of law can not be legally forfeited for violation of any other provision of law."

All three assigned errors are untenable.

1. Petitioner argues that the Collector of Customs of Jolo, who has "jurisdiction over all matters arising from the enforcement of tariff and customs laws within his collection district" as provided for in Section 703 of the Tariff and Customs Code, is exclusively authorized to proceed against the cigarettes in question inasmuch as the smuggling was allegedly perpetrated in his collection district. Hence, petitioner concludes that the seizure and forfeiture thereof by the Collector of Customs of Cebu is irregular and illegal for lack of jurisdiction.

We do not agree. First, because Section 703, on which petitioner's conclusion is premised, is legally non-existent, the same having been vetoed by the President.^[1] Secondly, the Tariff and Customs Code clearly empowers, the Bureau of Customs to prevent and suppress smuggling and other frauds upon the Customs [Sec. 602 (b)] over all seas within the jurisdiction of the Philippines and over all coasts, ports, airports, harbors, bays, rivers and inland waters navigable from the sea and, in case of "hot pursuit", even beyond the maritime zone (Sec. 603). For the due enforcement of this function, a Collector, among others, is authorized to search and seize (Sec. 2203), at any place within the jurisdiction of the said Bureau (Sec. 2204, sec. par.), any vessel, aircraft, cargo, article, animal or other movable property when the same is subject to forfeiture or liable to any fine imposed under customs and tariff laws (Sec. 2205). It is of no moment where the introduction of the property subject to forfeiture took place. For, to our mind, "(i)t is the right of an officer of the customs to seize goods which are suspected to have been introduced into the country in violation of the revenue laws not only in his own district, but also in any other district than his own" [Taylor vs. U. S., 44 U. S. (3 How.) 197, 11 L. ed. 559]. Any other construction of the Tariff and Customs Code, such as the one proposed by petitioner, would virtually place the Collector of Customs in a straitjacket and render inutile his police power of search and seizure, thereby frustrating effective enforcement of the measures provided in the Code to prevent and suppress smuggling and other frauds upon the Customs. This we can not sanction by subscribing to petitioner's conclusion. The Code, as a revenue law, is to be construed to carry out the intention of Congress in enacting it and as would most effectually accomplish its objects (15 Am. Jur. 304).

Petitioner also attacks the jurisdiction of the Collector of Customs of Cebu on the ground that the forfeiture of the cigarettes is not in accordance with Section 2531 of the Code, as the same were, at the time of seizure, no longer in the custody and control of the Bureau of Customs nor in the hands, or subject to control, of the importer: original owner, consignee, agent or person with knowledge that the same were imported contrary to law.

Again, we disagree. The forfeiture is effected precisely in accordance with Section 2531 afore-cited, which plainly provides "that forfeiture shall be effected when and while the article is in the custody or within the jurisdiction of the customs authority ... or in the hands or subject to the control of some person who shall receive, conceal, buy, sell or transport the same with knowledge that the article was imported contrary to law" (Emphasis supplied). There can be no question that the cigarettes involved were seized and forfeited at the port of

Cebu which is within the jurisdiction of the Bureau of Customs and, as will be shown later, while the cigarettes were subject to the control of petitioner, who bought, concealed, and transported the same aboard the M/V "Legaspi" with knowledge that they were imported contrary to law. Besides, it is a settled jurisprudence that forfeiture proceedings are in the nature of proceedings in rem wherein the jurisdiction to proceed against the res is vested in the court of the district where the same is found or seized (25 C. 572). Therefore, the Collector of Customs of Cebu, who has the authority under the Tariff and Customs Code to institute forfeiture proceedings, lawfully assume jurisdiction to forfeit, in favor of the Government, the smuggled cigarettes found and seized within his collection district.

2. Petitioner next argues that the cigarettes in question are not merchandise of prohibited importation inasmuch as she had purchased the same in the open market in Jolo; which goes to show that she is not the importer, original owner, consignee, agent or person who effected the importation thereof; and that, in the absence of evidence that she bought the same with knowledge that they were imported contrary to law in accordance with Section 2531, as the lack of internal revenue stamps is not evidence of illegal importation much less her knowledge thereof, the said cigarettes are not subject to forfeiture under Section 2530 (f) of the Code.

This is not the first time that this question has been posed before us. In the case of *Gigare vs. Commissioner of Customs* (G. R. No. L-21376, August 29, 1966, 17 S. C. R. A. 1001), we disposed of the same by holding that "(s)ince, admittedly, 'ale internal revenue tax on the cigarettes in dispute has not been paid, it is clear that said cigarettes fall within the category of 'merchandise of prohibited importation,' the importation of which is contrary to law and may justify its forfeiture, as provided in Sections 1363 (f) and 1364 of the Revised Administrative Code," which correspond to Sections 2530 (f) and 2531, respectively, of the Tariff and Customs Code. "Moreover, the blue seals affixed on said commodities prove satisfactorily that they are foreign products. Again, the importation thereof into the Philippines is attested by the presence of said products within our jurisdiction" (*Ibid.*). And concerning petitioner's knowledge of these facts, the following disquisition by the Court of Tax Appeals lengthily quoted in the *Gigare* case, finds significant application in the case at bar:

"Were the cigarettes in question illegally imported into the Philippines? We are of the opinion that the Commissioner of Customs should be sustained in his finding that the cigarettes in question were imported illegally. The absence of Philippine internal revenue strip stamps on cigarettes indicates that they are either manufactured clandestinely within the Philippines or imported illegally into the country. In the case at bar, concomitant circumstances militate against the manufacture clandestinely within the Philippines of the cigarettes. The affixture of blue seals on the packs of the cigarettes, the wrappers, the purchase of the cigarettes in the open market of Jolo, a place where American and other foreign-made cigarettes are, of common knowledge, frequently smuggled from Borneo and the failure of petitioner to show that the cigarettes in question were locally manufactured rule out the possibility that the cigarettes in question were manufactured in the Philippines. Consequently, we are constrained to conclude that these cigarettes were foreign (American) made. They were merchandise of prohibited importation, the importation of which was contrary to law, and should be forfeited under Section 1363 (f) of the Revised Administrative Code.

xxxxxx xxxxxx xxxxxx xxxxxx;

"The fact that petitioner is merely a buyer of the cigarettes in the open market of Jolo does not render the cigarettes immune from the penalty of forfeiture. This is so because forfeiture proceedings are instituted against the res (cigarettes) and, by express provision of Section 1364 of the Revised Administrative Code, the forfeiture shall occur while the merchandise is in the hands or subject to control of some person who shall receive, conceal, buy, sell, or transport the same with knowledge that the merchandise was imported contrary to law. Petitioner cannot but be charged with the knowledge that the cigarettes in question were imported contrary to law, for if it were otherwise, why were these cigarettes concealed on board the vessel . . . ? Why did she deny

owner-ship over said cigarettes? For what plausible reason was she afraid of detention? What impelled her to believe that she would be detained by the customs authorities? To uphold the claim of petitioner and forego the forfeiture would be giving a chance to accessories after the 'fact of smugglers of foreign cigarettes to ply their trade with impunity and with sanction of the courts. What the executive department could not curb, that is rampant smuggling of foreign cigarettes, the courts should not tolerate . . . “

3. Petitioner finally contends that the decision of the Commissioner of Customs libeling and forfeiting the cigarettes involved in the present case for violation of Section 2530 (m-1) of the Tariff and Customs Code is unconstitutional, in view of the fact that she was allegedly not afforded an opportunity to defend the cigarettes against such charge, said section not being one of the original grounds cited by the Collector of Customs of Cebu in forfeiting the same.

The contention has no merit. Certainly, the appellate power of the Commissioner of Customs to review seizure and protest cases is not limited to a review of the issues raised on appeal. He may affirm, modify or reverse the decision of the Collector (Section 2313) on other questions provided that his findings and conclusions are, as in the case at bar, supported by evidence. It is of no consequence whatsoever what were the original grounds of the seizure and forfeiture if, in point of fact, the goods are by law subject to forfeiture [Wood vs. U. S., 16 Pet. (U.S.) 342, 10 L. ed. 987]. As there is evidence on record showing that the cigarettes in question were imported and introduced into the country without passing through a customs house, the same may be forfeited under said Section 2530 (m-1.) of the Code, notwithstanding that it is not one of the original charges. As we held in *Que Po Lay vs. Central Bank et al.* (104 Phil. 853), what counts is not the designation of the particular section of the law that has been violated but the description of the violation in the seizure report.[2]

WHEREFORE, the decision appealed from is hereby affirmed, with costs against petitioner.

SO ORDERED.

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

[1] 53 Off. Gaz. (No. 20) 7200.

[2] Also *U. S. vs. Burns*, 41 Phil 418; *U. S. vs. Ondaro*, 39 Phil. 70; *U.S vs. Treyes*, 14 Phil. 270; *U. S. vs. Jeffrey*, 15 Phil. 391; *Davis vs. Dir. of Prisons*, 17 Phil. 168.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.