

MANGHARAM B. HEMMANI, PETITIONER AND APPELLANT, VS. THE EXPORT CONTROL COMMITTEE, RESPONDENT AND APPELLEE.

G. R. No. L-8414. February 28, 1957

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APPEAL from a judgment of the Court of First Instance of Manila. Bayona, J. The facts are stated in the opinion of the Court. De la Cruz, Fernandez & Mate for appellant. Solicitor General Avibrosio Paditta and Assistant Solicitor General Jose G. Bautista for appellee. The Solicitor General has made an accurate exposition of the facts of the case. They may be summarized as follows: On August 28, 1952, petitioner requested permission from the Export Control Committee, created under section 2 of Republic Act No. 613 and composed of the Secretary of Agriculture and Natural Resources as Chaffman, the Secretary of National Defense and the Administrator of Economic Coordination, as Members, to ship his Hudson Sedan, Model 1949, Motor No. 48149039, valued at P4,500, to Osaka, Japan, on board the S.S. President Wilson, "to be used in connection with his business thereat." The respondent Committee approved the request on the same day, on condition that petitioner would file a bond equal to the value of the car, to guarantee the return of the same to the Philippines within six months from the date of its shipment.

On August 29, 1952, petitioner, posted with the Filipinas Compania de Seguros a surety bond (Annex A) in the sum of P4,500 in favor of the Republic of the Philippines (Bureau of Customs), guaranteeing that the Hudson Sedan car would be re-exported back to the Philippines from Japan within six months from the execution of the bond. Accordingly, petitioner took the car in question to Osaka, Japan, on August 29, 1952, but failed to bring it back to the Philippines as promised. Instead petitioner filed two requests for extension of six months each to be allowed to re-export the car back to the Philippines until March 1, 1954, alleging that he was still on a business tour and it would be impracticable to return the car on time. Notwithstanding the two extensions given him by the respondent the car in question was not brought back to the Philippines.

On February 24, 1954, Atty. Teotimo A. Roja, in behalf of the petitioner, requested the respondent to order the cancellation of the surety bond of P4,500 that he and the Filipinas Compania de Seguros (Bond No. 27914) had executed, alleging that it would be impracticable and expensive to return the car to Manila, considering its dilapidated condition and utility in Japan, but the respondent denied said request, though at its meeting held on February 24, 1954 it decided to reduce the liability under the bond to P2,250.00 for the reason that this was the value that the car would have at the state it was then if it were brought back to the Philippines, thus allowing a depreciation of 15 per cent each year.

On May 13, 1954, petitioner requested respondent for a reconsideration of its resolution of February 24, 1954, alleging that: "(1) the Committee had no jurisdiction to impose said penalty; and (2) granting, for the sake of argument that the Committee had jurisdiction to impose said penalty, the penalty imposed was highly excessive and violative of the Constitutional prohibition against excessive fines". Again this motion for reconsideration was denied by the respondent under date of June 30, 1954; hence the institution of this petition in the Court of First Instance of Manila on July 6, 1954, which was answered by the Solicitor General in due time. The case was then submitted on a stipulation embodying the facts aforementioned, and the Court rendered decision on September 24, 1954, dismissing the petition for lack of merit, with costs against the petitioner. From this decision the petitioner

appealed to Us and in the instance his counsel maintains that the lower court erred:

- In not finding that appellant's car in question is personal effect and therefore not subject to statutory or reglementary prohibition against exportation;
- In not sustaining appellant's claim that the bringing out of his car in the instant case did not constitute exportation;
- In not finding that the respondent had acted without jurisdiction in requiring appellant to file a bond and later ordering its forfeiture; and
- In denying the petition for certiorari.

Section 3 of Republic Act No. 613, approved on May. 11, 1951, authorizes the President "to control, curtail, regulate and/or prohibit the exportation or re-exportation of materials, goods and things referred to in Section 2 of the Act and to issue rules and regulations as would be necessary to carry out the provisions thereof". Section 2 of said Act prescribes in turn "that all applications for permit to export or re-export any of the articles mentioned in the preceding section 1, should be filed before a Committee to be composed of the Secretary of Agriculture and Natural Resources as Chairman, the Secretary of National Defense and the Administrator of Economic Coordination as Members". Republic Act No. 613 further provides the following:

"Sec. 1. In order to promote economic rehabilitation and develop' ment and to safeguard national security, it shall be unlawful for any person, association or corporation to export or re-export to any point outside the PHILIPPINES MACHINERIES AND THEIE SPARE PARTS, scrap metals, medicines, foodstuffs, abaca seedlings, gasoline, oil, lubricants and military equipment or supplies suitable for military use without a permit from the President which may be issued in accordance with the provisions of the next succeeding section."

In virtue of the power vested in him, the President issued on June 19, 1951, Executive Order No. 453, series of that year (47 Off. Gaz. No. 6, p. 2793), section 2 Whereof reads as follows:

"Sec. 2. The exportation of all artieUa included, in the list marked Annex A, hereto attached as an integral part of this Order, is absolutely prohibited: Provided, however, That licenses issued or authority granted prior to the effectivity of Republic Act No. 613, by the Interdepartmental Committee from February 28, 1951, by the Civil Aeronautics Board or the Civil Aeronautics Administration and by the Sugar Quota Office on nonferrous metals pursuant to the Cabinet Resolution of November/ 21, 1950, are valid and subsisting."

(The articles pertinent to this case that are included in the list marked Annex A referred to above are enumerated in Paragraph IV of said annex which will be quoted hereafter).

The President, however, amended this Executive Order by another, No. 482, issued on October 31, 1951 (47 Off. Gaz., No. 10, p. 5039), in the following manner:

"Sec. 2. The exportation of all articles included in the list marked Annex A, hereto attached as an integral part of this Order, w absolutely prohibited: Provided, however, That in exceptionally meritorious cases and where the Committee is fully satisfied that the overall economic and military requirements of the country are not prejudiced, such exportation may be allowed subject to the provisions of Section 4 of this Order", (which refers only to applications concerning articles included in the list marked An-nex C and not in Annex A).

Because of the amendment made by Executive Order No. 482, the Hudson Sedan automobile herein involved was allowed by the Committee to be exported to Osaka, Japan, with the obligation on the part of the plaintiff to reexport it back to the Philippines from Japan within the period granted to him to do so, extensions included, which obligation he failed to fulfill. Naturally, he is in duty bound to abide by the consequences of his failure and must pay the amount of the bond he posted, as ultimately reduced, or F2,250. Plaintiff, however, contends that his

car in question was his personal effect and, therefore, not subject to statutory or reglementary prohibition against exportation. It seems, however, that plaintiff confuses the term "personal effects" with "prop-erty of the person" or "personal property". As pointed out by the Solicitor General:

"The word 'personal' used with 'effects' much restricts its meaning (Child vs. Orton, 183, A. 709, 710-119 NX Eq, 438), and certainly (that meaning; cannot be extended to include automobiles. The expression in common understanding without any qualifying words includes only such tangible property as attends the person.

Among the articles the exportation of which is prohibited according to said Executive Order are:

TV. Imported Machinery (light and heavy), mechanical, electrical, agricultural, construction, engineering, and transportation equipment of all types, including surplus equipment, spare parts; accessories, wires and other allied articles, except those already approved by the Bureau of Customs or NICA or order Government agencies as well as licenses covered in section 2 herein. it is undisputed that petitioner's car is covered within the term 'transportation equipment of all types' and not as 'personal effects', as counsel would want to classify it. Petitioner's car wds admittedly brought by him to Osaka, Japan, 'to be used in connection with his business' (p. 16, Record on Appeal), and that when he asked for extension of time to re-export the motor vehicle back to the Philippines, his reason was that 'he was still on a business tour, (p. 17, Record on Appeal).

If by personal effects of. passengers in transit transportation equipment used in one's business were included, then it would be a simple matter to defeat the intention of the law, that is, to promote the economic and industrial development of the country. To seal any possible loophole, the Executive Order made it clear that exportation of all articles included in the list is prohibited irrespective of the use for which they were intended."

The cardinal rule in the interpretation of laws is to ascertain and give effect to the legislative intent (Roldan and Daza vs. Villaroman (1949), 69 Phil. 12), and the intention of the Legislature in enacting a law is part of the law itself, and is to be followed and applied, where ascertainable, in construing apparently conflicting provisions (Attaban vs. Masbate Consolidated Mining Co., et aL (1940)ã-? Phil. 696). These principles of statutory construction are more true in the case at bar because the wording of the law is too plain and clear. On the other hand, the Solicitor General further contends that contrary to the assertions of plaintiff's counsel, the respondent is expressly authorized by the provisions of section 6 of said Executive Order No, 453 to require the petitioner to file a bond in this case to insure either the reaching of goods to their intended destination or its return to the Philippines, and section 4 of Republic Act No. 613 provides that in case of a Violation of said Act which regulates, controls and/or prohibits certain exports from the Philippines, the materials intended for export in violation of said Act and the rules and regulations thereunder, shall be confiscated by aricf forfeited to the Government. Consequently, if the petitioner violated the provisions of said Executive Orders by not returning or re-exporting back to the Philippines the automobile in question, and this property cannot be confiscated because it is beyond the jurisdiction of this country, it would appeal to reason that plaintiff should pay the equivalent value of the automobile which he placed beyond the reach of the Government of the Philippines. That is why he was required to give the bond and should pay the Government for the automobile that it could not seize and forfeit. But even assuming arguendo, that the respondent were not authorized to require the petitioner to file the bond in question, nevertheless, the Republic of the Philippines being a political entity has as an incident to its sovereignty the capacity to enter into contracts and take bonds in cases appropriate to the just exercise of its power through its instrumentalities or agencies whenever, as in the instant case, such contracts or bonds are not prohibited by law, although the making of such contracts or the taking of such bonds may not have been specifically prescribed by any pre-existing statute (Solicitor-General's brief, p. 6-8). Certainly petitioner could not have taken from the Philippines his automobile if he had not furnished the bond required from him and which he voluntarily furnished. He had been enjoying the benefits which the bond intended to secure and now he cannot come and allege that he

is not bound by the terms of the bond. The present case has a legal aspect similar to the one We solved in the case of *Compania General de Tabacos de Filipinas and S. S. Co. of 1912 & S. S. Co. Svandoorg (A. P. MoUer, Maersk Line)*, petitioner, vs. *The Collector of Internal Revenue*, respondent, G. R. No. L-9071, promulgated January 31, 1957. It appeared in that case: "That while the M/V *Hulda Maersk*, represented locally by *Tabacalera*, was moored alongside Manila's Pier No. 9, its chief steward, *Henry Anderson*, took from its stores 30 cases of cigarettes of foreign manufacture, which he sold to two persons in uniform for two thousand dollars (\$2,000.00). With his help the cargo was surreptitiously unloaded and withdrawn from the pier, import taxes unpaid. The Customs authorities somehow discovered the anomaly, and promptly investigated. *Anderson* admitted the sale; *Captain Jansen*, the ship's master, swore that the cigarettes belonged to the ship's stores and declared their willingness to pay the corresponding duties upon presentation of the bill to their local agents, the *Tabacalera*. The latter in turn, thru its Acting Manager of the Shipping Department, *Edward N. Bosch*, who was present during the investigation, signed the following guaranty:

Dear Sir: We hereby confirm our agreement to pay immediately upon presentation of the corresponding bills, all taxes due on SO (Thirty) Cases *Chesterfield*, *Lucky Strike* and *Camel* cigarettes, each case containing fifty cartoons of two hundred cigarettes each, removed from the above vessel.

Accordingly, on March 5, 1952, upon receipt of the corresponding bill, *Tabacalera* paid the amount of P6,613.05 representing specific taxes on the foresaid cigarettes. Thereafter it submitted a request for refund, which the Collector of Internal Revenue denied, and the Court of Tax Appeals likewise denied."

In the cited case *Tabacalera's* demand for returned was made after the ship *Hulda Maersk* and the persons involved in the attempted smuggle had already left the Philippines, a fact that the Bureau of Customs would not have allowed to happen if the *Tabacalera* had not agreed to pay the taxes due upon presentation of the bill, and We affirmed the decision of the Board of Tax Appeals rendered in the case.

Wherefore, on the strength of the foregoing considerations and finding no error in the decision appealed from, We hereby affirm the same with costs against plaintiff. It is so ordered.

Paras, C. J., Bengzon, Padiilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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