# BIENVENIDO CAPULONG, PETITIONER VS. THE ACTING COMMISSIONER OF CUSTOMS, RESPONDENT.

*G.R. No. L-22990. May 19, 1966*

Ponente: BAUTISTA ANGELO, J.

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**BAUTISTA ANGELO, J.:**

On October 15, 1954, petitioner imported from Hongkong to the Philippines thirteen (13) packages of salted fish in bulk and hams which were declared under Import Entry No. 81851, series of 1954.

Since the above merchandise 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 45 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. 117 the amount of P8,448.00 executed by the Pioneer Insurance & Surety Corporation.

On June 2, 1960, the Commissioner of Customs rendered judgment in the seizure proceedings declaring the bond confiscated and ordering petitioner, as well as the surety corporation, to pay jointly and severally said amount of P8,418.00 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.

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 again brought this case for review before this Court.

Petitioner claims that the Court of Tax Appeals erred in declaring the forfeiture of the articles in question merely because it violates Central Bank Circulars Nos. 44 and 45 considering 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 1363 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, L-10979, June 30, 1959; See also Venancio Tonk Tek vs. Commissioner of Customs, L-11947, June 30, 1959; People vs. Que Po Lay, 50 Off. Gaz., No. 10, p. 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 333. This contention is without merit. Central Bank Circular 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 certificate 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 repealing1 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. 050 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 ease 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 cf 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 forforfeiture 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 Jaw was in force and which should stand until it is revoked by the appellate tribunal. * * *" (Roxas vs. Sayoc, G.R. No. L-8502, November 29, 1956)


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

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

Decision affirmed.

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