

PEDRO PACIS, AS ACTING COLLECTOR OF CUSTOMS, AND AGUSTIN MARKING, AS TECHNICAL ASSISTANT, OFFICE OF THE SECRETARY OF NATIONAL DEFENSE (OSND) AND ADMINISTRATOR, GENERAL AFFAIRS A...*G.R. NO. L-24068. April 23, 1974*

Ponente: FERNANDO, J.

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The undisputed facts attest to the merit of this suit for certiorari filed by petitioner Pedro Pacis, then Acting Collector of Customs,[1] against the then respondent Judge, Francisco Geronimo, who took cognizance of an action for prohibition by private respondent Ricardo Santos to restrain petitioner in his capacity as such Collector from further proceeding with a seizure case. As if that were not enough, private respondent was able to obtain a writ of preliminary injunction against any further step being taken in connection therewith and a writ of preliminary mandatory injunction for the surrender of the seized vehicle. As will be more fully explained, respondent Judge failed to abide by the settled law that denies him jurisdiction on the matter. Petitioner is thus entitled to the remedy sought.

The facts are undisputed. The antecedents are narrated in *Pacis vs. Pamaran*,[2] decided by us barely a month ago, where the same petitioner succeeded in his suit for prohibition to restrain the then fiscal Manuel R. Pamaran or whoever is acting in his stead to take cognizance of a complaint against petitioner for usurpation of judicial function. As set forth in the opinion of the Court: "Respondent Ricardo Santos is the owner of a Mercury automobile, model 1957. It was brought into this country without the payment of customs duty and taxes, its owner Donald James Hatch being tax-exempt. It was from him that respondent Santos acquired said car. On June 25, 1964, he paid P311.00 for customs duty and taxes. Petitioner on July 22, 1964 received from the Administrator, General Affairs Administration of the Department of National Defense, a letter to the effect that the Land Transportation Commission reported that such automobile was a 'hot car.' By virtue thereof, petitioner [the then Acting Collector of Customs], through his subordinates, looked into the records of his office. Thus he did ascertain that although the amount of P311.00 was already paid for customs duty, the amount collectible on said car should be P2,500.00, more or less. Based on such discrepancy, on July 22, 1964, he instituted seizure proceedings and issued a warrant of seizure and detention. On the strength thereof, the automobile was taken while it was parked on Economia Street, Manila, by Department of National Defense agents who were authorized to do so by virtue of the said warrant. It was then brought to the General Affairs Administration compound. Then on August 26, 1964, respondent Ricardo Santos, through counsel, wrote to the petitioner asking that such warrant of seizure and detention issued against his car be withdrawn or dissolved and the car released on his contention that the issuance of the warrant was unauthorized. He likewise threatened to proceed against the petitioner for violation of Article 241 of the Revised Penal Code and for damages. Petitioner on August 31, 1964 answered counsel of respondent Ricardo Santos, denying the request for the release of the car and adverting that the petitioner had, under the law, authority to issue such warrant of seizure and detention. What followed was the

filing by respondent Santos on September 15, 1964 of a criminal complaint for usurpation of judicial functions with the City Fiscal of Manila. It was assigned to then respondent Fiscal Manuel R. Pamaran for preliminary investigation. As the latter respondent was bent on proceeding with the charge against petitioner, this action was instituted."^[3]

Respondent Santos, in addition to accusing petitioner of usurping a judicial function for issuing a warrant of seizure and detention, did likewise on November 11, 1964, file with the Court of First Instance of Manila a certiorari and prohibition proceeding. His prayer included a plea for preliminary injunction to restrain petitioner from proceeding with the seizure case against respondent Santos as well as a preliminary mandatory injunction for the surrender to him of the car in question during the pendency of such court action. Notwithstanding a vigorous opposition on the part of petitioner, respondent Judge issued an order on December 21, 1964, granting the writs of preventive injunction and preliminary mandatory injunction. Upon his failure to have such order reconsidered, this certiorari proceeding was filed with this Court on January 26, 1965, petitioner Pacis seeking not only the nullification of the above writs of preliminary injunction and preliminary mandatory injunction but also the dismissal of the petition for prohibition against him, on the principal allegation that respondent Judge was devoid of jurisdiction.

As noted at the outset, this petition is impressed with merit. Three days after its filing, this Tribunal issued a writ of preliminary injunction restraining respondent Judge from enforcing or in any way implementing the writs of preventive and mandatory injunction that came from him. Respondent Judge lacks legal competence to entertain such action for certiorari and prohibition instituted by respondent Santos.

1. "The prevailing doctrine," according to *Ponce Enrile vs. Vinuya*,^[4] "is that the exclusive jurisdiction in seizure and forfeiture cases vested in the Collector of Customs precludes a court of first instance from assuming cognizance over such a matter."^[5] In support of such a view, *Pacis vs. Averia*,^[6] *De Joya vs. Lantin*,^[7] *Romualdez vs. Arca*,^[8] *De Joya vs. David*,^[9] *Papa vs. Mago*,^[10] *Diosamito vs. Balanque*^[11] were cited. It was likewise made clear in the above *Ponce Enrile* opinion that the law explicitly states that the decision of the Collector of Customs is appealable to the Commissioner of Customs, whose ruling in turn may be elevated for review to the Court of Tax Appeals. Necessarily therefore, a court of first instance is precluded from interfering with such exclusive jurisdiction of the Collector of Customs. Otherwise, as noted in the above decisions, the procedure carefully delineated by law for seizure and forfeiture cases might be thwarted and set at naught.

Barely two months after *Ponce Enrile vs. Vinuya*, came *Luna vs. Pacis*,^[12] where a court of first instance order dismissing a petition for mandamus against the then Acting Collector Pacis, the grievance alleged being his denial of a request for the redemption of a fishing boat forfeited in favor of the government, was upheld. As was set forth in the opinion of Justice Zaldivar: "The only matter to be resolved in the present case is, whether or not the Court of First Instance of Manila had correctly dismissed the petition for mandamus because it had no jurisdiction over the case,"^[13] In affirming the order of dismissal, he stated: "What appellant should have done was to appeal to the Commissioner of Customs from the decision of the Collector of Customs denying her offer to redeem the vessel in question and, in the event of an adverse decision by the Commissioner of Customs, to appeal to the Court of Tax Appeals; and he still had a recourse of appeal to this Court in case of an adverse decision by the Court of Tax Appeals."^[14]

2. Nor did this Court in *Luna vs. Pacis* announce a new doctrine. Again, as was pointed out in the opinion of Justice Zaldivar, as far back as June 30, 1955, in *Millarez vs. Amparo*,^[15] this Court, in the opinion by the then Justice, later Chief Justice Bengzon, had, in unmistakable language, left no doubt as to a court of first instance being devoid of jurisdiction to pass on seizure and forfeiture proceedings. Thus: "Republic Act No. 1125, section 7, effective June 16, 1954 gave the Court of Tax Appeals exclusive appellate jurisdiction to review on appeal,

decisions of the Commissioner of Customs, involving 'seizure, detention or release of property affected * * * or other matters arising under the Customs Law or other laws administered by the Bureau of Customs'. In our opinion this provision necessarily has taken away the power of the Manila court of first instance to 'review' decisions of the Customs authorities, 'in any case of seizure' – as in this case – under section 1383 et seq. of the Revised Administrative Code. Consequently the respondent judge had no authority to entertain the complaints of Serree Investments, Lim Hu and Fructuoso Nepomuceno, which, although entitled Mandamus and Certiorari were in reality petitions to review the actuations of the proper customs authorities, now exclusively reviewable by the Court of Tax Appeals. (R.A. 1125). Furthermore, conceding that the complaints were strictly mandamus or certiorari civil actions, still they were groundless, the petitioners having an adequate remedy by appeal, as stated, to the Court of Tax Appeals. Neither certiorari nor mandamus, it will be recalled, is available where relief by appeal is provided. Therefore, the complaints having no merit, issuance of the preliminary mandatory injunctions was clearly erroneous, and the challenged writs should be annulled." [16] Such a ruling, according to Justice Zaldivar in *Luna vs. Pacis*, "has been consistently reiterated in subsequent decisions of this Court." [17]

WHEREFORE, the writs of certiorari and prohibition prayed for are granted. Civil Case No. 58961 filed with the court of respondent Judge is hereby dismissed. All the questioned orders of respondent Judge are likewise annulled and set aside. The writ of preliminary injunction is made permanent. Costs against respondent Ricardo Santos.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.
Barredo, J., took no part.

[1] A co-petitioner is Agustin Marking, then a technical assistant in the Department of National Defense.

[2] G.R. No. L-23996, March 15, 1974.

[3] Ibid.

[4] G.R. No. L-29043, January 30, 1971, 37 SCRA 381.

[5] Ibid, 386.

[6] G.R. No. L-22526, November 29, 1966, 18 SCRA 907.

[7] G.R. No. L-24037, April 27, 1967, 19 SCRA 893.

[8] G.R. No. L-20516, November 15, 1967, 21 SCRA 856.

[9] G.R. No. L-23504, December 29, 1967, 21 SCRA 1493.

[10] G.R. No. L-27360, February 28, 1968, 22 SCRA 857.

[11] G.R. No. L-30734, July 28, 1969, 28 SCRA 836.

[12] G.R. No. L-24237, March 31, 1971, 38 SCRA 189.

[13] Ibid, 192.

[14] Ibid, 193. Cf. *Seneres vs. Frias*, G.R. No. L-32921, June 10, 1971, 39 SCRA 533; *Collector of Customs vs. Torres*, G.R. No. L-22977, May 31, 1972, 45 SCRA 272.

[15] 97 Phil. 282.

[16] Ibid, 284-285.

[17] 38 SCRA 189, 193. He cited in support of such a pronouncement the following cases: NAMARCO vs. Macadaeg, 98 Phil 185 (1956); Sampaguita Shoe and Slipper Factory vs. Comm. of Customs, 102 Phil. 850 (1956); Pepsi-Cola Bottling Co. vs. Manahan, 105 Phil. 1299 (1959); Acting Collector of Customs vs. De la Rama Steamship, G.R. No. L-20676, February 26, 1965, 13 SCRA 298; Auyong Hian vs. Court of Tax Appeals, G.R. No. L-25181, Jan. 11, 1967, 19 SCRA 10; De Joya vs. Lantin, G.R. No. L-24037, April 27, 1967, 19 SCRA 893; Acting Collector of Custom vs. Caluag, G.R. No. L-23925, May 24, 1967, 20 SCRA 204; Romualdez vs. Arca, G.R. No. L-20516, Nov. 15, 1967, 21 SCRA 856; Southwest Agricultural Marketing Corp. vs. Secretary of Finance, G.R. No. L-24797, Oct. 8, 1968, 25 SCRA 452.

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