

ROSITA C. DE LA CRUZ, JOINED BY HER HUSBAND, JULIO T. DE LA CRUZ, PETITIONERS, VS. COURT OF TAX APPEALS, AND THE COMMISSIONER OF CUSTOMS, RESPONDENTS.

G.R. Nos. L-23335 & L-23452. February 29, 1968

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal from a decision of the Court of Tax Appeals, affirming the decisions of the Commissioner of Customs, in the above-entitled case holding petitioners, Rosita C. de la Cruz and Julio T. de la Cruz, in CTA Case No. 1158 (G. R. No. 23335) and petitioner Rosita C. de la Cruz, in CTA Case No. 1198 (G. R. No. 23452) — hereinafter referred to as appellants — jointly and severally liable, with the Alto Surety Insurance Co., Inc., for the payment of several sums of money aggregating P397,894. 20.

As set forth in the decision of the Court of Tax Appeals, the factual setting of these two (2) cases is this;

"x x x Sometime in 1954 and 1955 petitioners received various shipments of foodstuff and textile from Hongkong and Japan. The importations were covered by bills of lading and commercial invoices but petitioners failed to present the necessary consular invoices and Central Bank release certificates as required by Central Bank Circulars Nos. 44 and 45. Whereupon, the Collector of Customs for the Port of Manila instituted seizure proceedings pur-suant to Sections 1363(f), 1250 and 1363(m)-3, 4 and 5, of the Revised Administrative Code. Meanwhile, the shipments in question were released from cus-toms custody under bond after payment of customs duties and taxes. After due hearing, the Collector of Customs found the importations were in violation of the provisions of Central Bank Circulars Nos. 44 and 45. Consequently, he ordered the forfeiture and confiscation of the bonds posted by petitioners. Petition-ers appealed to the Commissioner of Customs who af-firmed the decision of the Collector. Hence, this ap-peat.

"On February 13, 1963, petitioners filed a supplemental petition, alleging therein that Central Bank Circulars Nos. 44 and 45 were repealed by Central Bank Circular No. 133 on January 21, 1962 and that by virtue of the repeal the penalty of forfeiture in-curred under said two circulars was abated."

Appellants maintain that the decision appealed from is erroneous because:

1. Central Bank Circulars Nos. 44 and 45 are inapplicable to the case at bar, inasmuch as the latter involve no-dollar importations;
2. The penalty or liability incurred for violation of said circulars has been abated by Central Bank Circular No. 133;
3. The Customs authorities have no jurisdiction to impose the penalty for violation of Central Bank Circulars Nos. 44 and 45, which should be the object of criminal prosecution instituted upon the initiative of the Central Bank;
4. The Customs authorities are in estoppel to decree the forfeiture of the goods in question, after ordering the release thereof, upon payment of the corresponding customs duties and taxes for the importation of said goods;

and

5. It concluded that dollar remittances were involved in these cases, despite the provision to the contrary in the stipulation, of facts between the parties.

It has been repeatedly held by this Court that goods brought to the Philippines without a dollar remittance, during the effectivity of Circulars Nos. 44 and 45, were required by the same to be provided with a Central Bank release certificate, upon the theory that practically "all imports," including those involving no-dollar exchange, represent either "an immediate x x x or a potential demand of foreign exchange," and that the release certificate was necessary to enable the Bank to know, at all times, the precise volume of imports of whatever nature, so that it may be guided accordingly in the formulation of its policies and in the implementation thereof.[1]

This Court has, likewise, declared consistently that liabilities incurred for violation of Circulars Nos. 44 and 45 have not been abated by Central Bank Circular No. 133.2

Since the goods involved in the cases at bar were sought to be imported without the requisite release certificates, they fall under the category of merchandise "subject to importation only upon conditions prescribed" therefore, as the expression is found in Section 1250 of the Revised Administrative Code,³ which is part of Chapter 39 thereof, entitled "Bureau of Customs." Pursuant to Section 1139 of said Code⁴ the general duties, powers and jurisdiction of said Bureau shall include, inter alia, "the enforcement of the customs laws and other laws x x x relating to customs, commerce, navigation' and "the collecting or securing of the lawful revenues from dutiable merchandise or from tonnage dues and wharf charges; the collection or securing of all other dues, fees, fines and penalties accruing under the customs laws." Among these laws is Section 1363 of the same Code,⁵ pursuant to which "vessels, cargo merchandise and other objects and things shall, under the conditions herein below specified, be subject to forfeiture:

x x x x

"(f) Any merchandise of prohibited importation x x x the importation x x x of which is effected or attempted contrary to law x x x."

Moreover, "where merchandise is of prohibited importation or subject to importation only upon conditions prescribed by law," Section 1250 of the Revised Administrative Code, provides, "it shall be the duty of the Collector (of Customs),⁶ conformably to the provisions of this chapter, "to exercise such jurisdiction in respect thereto as will prevent importation or otherwise secure compliance with all legal requirements."

The foregoing provisions leave no room for doubt that, it is not only within the "jurisdiction" and "authority" of the Commissioner of Customs to decree the forfeiture complained of, but, also, his "duty" to do so.

As regards the alleged estoppel to order said forfeiture, after the release of the imported goods, upon the payment of the customs duties and taxes due for said importation, suffice it to note that said release was secured by appellants herein under the express condition, set forth in the bonds by them submitted therefor, that the entire amounts of said bonds "shall be paid in cash to the Bureau of Customs" in the event that it shall be finally decided that the merchandise" in question "shall be forfeited to the Government." Having thus obtained possession of the goods subject to the authority of said Bureau to decree said forfeiture and, hence, with a clear recognition, acknowledgment and acceptance of said authority, as well as submission thereto, appellants are estopped from questioning the same.

The last point raised by appellants is based upon the erroneous premise that the importations in question have been held to involve foreign exchange. As above indicated, a release certificate is essential to all importations made during the effectivity of Circulars Nos. 44 and 45, regardless of whether or not they involve foreign

exchange.

WHEREFORE, the decision appealed from should be, as it is hereby, affirmed, with costs against appellants herein.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Capulong v. Acting Commissioner of Customs, L-22991, January 16, 1968; Acting Commissioner of Customs vs. Leuterio, L-19142, October 17, 1951; Tong Tek vs. Commissioner of Customs, L-11947, June 30, 1959; Pascual vs. Commissioner of Customs, L-10979, June 30, 1961; Commissioner of Customs v. Eastern Sea Trading, L-14279, October 31, 1961; Commissioner of Customs vs. Santos L-11911, March 30, 1962; Commissioner of Customs vs. Nepomuceno, L-11126, March 31, 1962; Seree Investment Co. vs. Commissioner of Customs, L-20847-49, June 22, 1965, Bombay Department Store vs. Comm. of Customs, L-20460, Sept. 30, 1965; Seree Investment Co. vs. Comm. of Customs, L-21217, Nov. 29, 1965; Yupangco & Sons, Inc. vs. Comm. of Customs, L-22259, Jan. 19, 1966; Chan Kian vs. Collector of Customs, L-20803, Jan. 31, 1966; Phil. International Surety vs. Comm. of Customs, L-22209, Dec. 17, 1966; and Lazaro vs. Comm. of Customs, L-22512 & L-22514, Dec. 22, 1967.

2 Capulong vs. Act'g Commissioner of Customs, L-2299 January 16, 1968; Lazaro vs. Commissioner of Customs, L-22511 & L-22513, May 16, 1966; Capulong vs. Aseron, L-22989, May 14, 1966; Yupangco & Sons, Inc. vs. Commissioner of Customs, L-22259, January 19, 1966; Bombay Department Store vs. Commissioner of Customs, L-20460, September 30, 1965; Tong Tek vs. Commissioner of Customs, L-11947, June 30, 1959; Pascual vs. Commissioner of Customs, L-10979, June 30, 1959; and People vs. Que Po Lay, 94 Phil., 640.

3 Now section 1207 of the Tariff and Customs Code.

4 Now section 602 of the Tariff and Customs Code.

5 Now section 2530 of the Tariff and Customs Code.

6 Now Commissioner of Customs.

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