

THE COMMISSIONER OF CUSTOMS, AND THE COLLECTOR OF CUSTOMS, PETITIONERS, VS. HON. PEDRO C. NAVARRO, JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH II (PASIG, RIZAL), AND J...

G.R. No. L-33146. May 31, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

The stress, and rightly so, by the Commissioner of Customs and the Collector of Customs in their exhaustive and scholarly petition for certiorari, filed on February 11, 1971, was on the jurisdictional issue. It sought to nullify and set aside an order[1] of respondent Judge Pedro C. Navarro[2] dated January 4, 1971, issuing a writ of preliminary injunction as prayed for by private respondents Juanito S. Flores and Asiatic Incorporated, the importers of 1,350 cartons of fresh fruits, restraining petitioners from proceeding with the auction sale of such perishable goods. Classified as non-essential consumer commodities, they were banned by Central Bank Circulars Nos. 289, 294 and 295 as prohibited importation or importation contrary to law and thus made subject to forfeiture proceedings by petitioner Collector of Customs pursuant to the relevant sections of the Tariff and Customs Code.[3] In a detailed and specific fashion, petitioners pointed out how violative was the assumption of jurisdiction by respondent Judge over an incident of a pending seizure and forfeiture proceeding which, as held in a number of decisions, was a matter falling within the exclusive competence of the customs authorities. The persuasive character of the petition is thus evident, resulting in this Court issuing on February 15, 1971 a resolution requiring respondents to file an answer and at the same time issuing a writ of preliminary injunction as prayed for by petitioners to prevent the challenged order of respondent Judge from being implemented. Instead of preparing an answer, they just submitted a manifestation stating that "after an intensive and serious study of the merits of the case, the respondents have decided to abandon its interest in the case." [4] The rationale behind such a move was ostensibly the desire to avoid additional expenses, in view of the fact that "the shipments, being perishable, have already deteriorated." [5] It is difficult to avoid the suspicion that the real reason was that the points of law raised by petitioners could not be refuted. Private respondents concluded with a statement of "their intention of not filing an answer to the instant petition and respectfully [submitting] the case on the basis of the pleadings made before the lower court." [6]

It does not require too much of an effort then to ascertain the applicable legal principles that should govern. The inescapable conclusion is that the petition possesses merit. Certiorari lies.

1. The question of seizure and forfeiture is for the administrative authorities to determine, the Collector of Customs in the first instance and then the Commissioner of Customs. This is a field where the doctrine of primary jurisdiction controls. Thereafter an appeal may be taken to the Court of Tax Appeals. A court of first instance is thus devoid of competence to act on the matter. There is further judicial review, but only by this Court in the exercise of its certiorari jurisdiction. More specifically, in *Pascual v. Commissioner of Customs*, [7] a 1959 decision, this Court affirmed a judgment of the Court of Tax Appeals and categorically announced that respondent

Commissioner of Customs could "seize [the importation of goods lacking the release certificates of the Central Bank] and order their forfeiture under the [appropriate] provisions of the Revised Administrative Code." [8] Such a doctrine was reiterated in *Commissioner of Customs v. Serree Investment Company*; [9] *Commissioner of Customs v. Eastern Sea Trading Co.*; [10] *Commissioner of Customs v. Santos*; [11] *Commissioner of Customs v. Nepomuceno*; [12] *Pascual v. Commissioner of Customs*; [13] *Serree Investment Co. v. Commissioner of Customs*; [14] *Bombay Dept. Store v. Commissioner of Customs*; [15] *Yupangco and Sons v. Collector of Customs*; [16] *Chan Kian v. Collector of Customs*; [17] *Capulong v. Aseron*; [18] *Lazaro v. Commissioner of Customs*; [19] *Capulong v. Acting Commissioner of Customs*; [20] *Gigare v. Commissioner of Customs*.²¹

That such jurisdiction of the customs authorities is exclusive was made clear in *Pacis v. Averia*,²² decided in 1966. This Court, speaking through Justice J. P. Bengzon, realistically observed: "This original jurisdiction of the Court of First Instance, when exercised in an action for recovery of personal property which is a subject of a forfeiture proceeding in the Bureau of Customs, tends to encroach upon, and to render futile, the jurisdiction of the Collector of Customs in seizure and forfeiture proceedings."²³ The court "should yield to the jurisdiction of the Collector of Customs."²⁴ Such a ruling, as pointed out by Justice Zaldivar in *Auyong Hian v. Court of Tax Appeals*,²⁵ promulgated less than a year later, could be traced to *Government v. Gale*,²⁶ a 1913 decision, where there was a recognition in the opinion of Justice Carson that a Collector of Customs when sitting in forfeiture proceedings constitutes a tribunal upon which the law expressly confers jurisdiction to hear and determine all questions touching the forfeiture and further disposition of the subject matter of such proceedings.²⁷

The controlling principle was set forth anew in *Ponce Enrile v. Vinuya*,²⁸ decided in 1971. Thus: "The prevailing doctrine 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."²⁹ Reference was then made in the opinion to previous cases.³⁰ Then it continued: "*Papa v. Mago* likewise deserves to be cited. The opinion of Justice Zaldivar for the Court emphatically asserted the doctrine anew in the following language: 'It is the settled rule, therefore, that the Bureau of Customs acquires exclusive jurisdiction over imported goods, for the purposes of enforcement of the customs laws, from the moment the goods are actually in its possession or control, even if no warrant of seizure or detention had previously been issued by the Collector of Customs in connection with seizure and forfeiture proceedings. In the present case, the Bureau of Customs actually seized the goods in question on November 4, 1966, and so from that date the Bureau of Customs acquired jurisdiction over the goods for the purposes of the enforcement of the tariff and customs laws, to the exclusion of the regular courts. Much less then would the Court of First Instance of Manila have jurisdiction over the goods in question after the Collector of Customs had issued the warrant of seizure and detention on January 12, 1967. And so, it cannot be said, as respondents contend, that the issuance of said warrant was only an attempt to divest the respondent Judge of jurisdiction over the subject matter of the case. The court presided by respondent Judge did not acquire jurisdiction over the goods in question when the petition for mandamus was filed before it, and so there was no need of divesting it of jurisdiction. Not having acquired jurisdiction over the goods, it follows that the Court of First Instance of Manila had no jurisdiction to issue the questioned order of March 7, 1967 releasing said goods.'"³¹ *Lopez v. Commissioner of Customs*,³² as well as *Luna v. Pacis*,³³ both 1971 decisions, speak to the same effect. The latest categorical declaration of such a rule appears in the opinion of Justice Teehankee, speaking for the Court, in *Señeres v. Frias*³⁴ in these words: "It is the settled law and jurisprudence in this jurisdiction that the customs authorities acquire exclusive jurisdiction over goods sought to be imported into the Philippines, for the purpose of enforcement of Philippine customs laws, from the moment the goods are actually under their possession and control, even if no warrant for seizure or detention thereof has previously been issued by the port collector of customs."³⁵

2. The petition did not ignore the due process aspect which appeared to have bothered respondent Judge. It was

pointed out that in ordering the sale at public auction of the fruits in question, considering their perishable character, petitioners acted in accordance with Section 2607 of the Tariff and Customs Code. Insofar as pertinent, it reads: "When seizure shall be made of property which, in the opinion of the Collector, is liable to perish or be wasted or to depreciate greatly in value by keeping, or which cannot be kept without great disproportionate expense, whether such property consists of live animals or of any article, the appraiser shall so certify in his appraisal, then the Collector may proceed to advertise and sell the same at auction, upon notice as he shall deem to be reasonable."³⁶ There was a literal adherence to the procedure above set forth. The proper advertisement to sell the perishable goods at auction was made. That was the notice required by the statute. Private respondents as the importers could not have been unaware that such step was contemplated. The law expects them to have that requisite degree of interest in what was happening. There is nothing unreasonable in such an assumption. It would be futile to assert therefore that there was a denial of due process unless the above section is considered null precisely on that ground. No attempt was made by private respondents to impugn its validity. Perhaps it is because of the realization that it would be futile. There is nothing arbitrary or unfair, the earmarks of a denial of due process, for the Collector to order the sale at public auction upon notice as he shall deem to be reasonable of a commodity in their nature perishable. That is the only way to safeguard during the pendency of a seizure and forfeiture proceeding the rights of both the government and even the persons responsible for the importation. That way, if the illegality of the importation is not shown and forfeiture is not ordered, the proceeds could be turned over to the importer. If it were otherwise, he would be deprived of property that is his, and that would be a denial of due process. What negates any assertion of such an infringement of a constitutional right is the admitted and undeniable fact that the importation in question is banned by the applicable Central Bank circulars. Petitioners therefore had no choice except to proceed in accordance with the mandatory provisions of the Customs and Tariff Code.

3. The petition likewise took pains to point out that the reliance by respondent Judge on Commissioner of Customs v. Alikpala³⁷ was misplaced. In that 1970 decision, this Court, recognizing that the judiciary in the Philippines is vested with both legal and equitable powers, did not deem it proper to set aside an injunction issued by the lower court addressed to the customs authorities to stop the sale at public auction of imported fruits. There was thus a semblance of similarity. A closer examination would reveal that the analogy is more apparent than real. The case could be easily distinguished. All that is necessary is to refer to the opinion of former Chief Justice Makalintal in the Alikpala decision: "The warrants of seizure were issued in view of Central Bank Circulars Nos. 294 and 295, promulgated on March 10 and 20, 1970, respectively, which provide that 'no-dollar imports not covered by Circular No. 247 shall not be issued any release certificates and shall be referred to the Central Bank for official transmittal to the Bureau of Customs for appropriate seizure proceedings.' Evidently, in the opinion of the Collector of Customs himself, even in the light of those circulars there exists no legal impediment to the release of the subject importations under bond, otherwise he would not have agreed thereto, although he changed his requirement from surety bond to cash. In any case, as pointed out by private respondents, the said importations had been ordered before Central Bank Circulars 294 and 295 were promulgated, and since the orders were made in accordance with previous practice there could be no bad faith or intent to violate those circulars."³⁸ Unfortunately, in this case, respondent Judge missed those significant distinctions. The importation in question was clearly violative of the above Circulars Nos. 289, 294 and 295. Also, petitioner Collector of Customs in this case was, in accordance with law, definitely opposed to the release of the importation in question. He could not have authorized it without being held liable for violating the Tariff and Customs Code and the applicable doctrines of this Court previously cited. It may be said further on this point that the Alikpala decision is the only one of its kind and has not since been followed. As a matter of fact, the previously cited Señeres decision did set aside a preliminary injunction issued by respondent Judge and did chide in vigorous and vehement language the assumption of jurisdiction by the lower court when respect for the controlling doctrines ought to have cautioned

him against the issuance of a preliminary injunction. In the even later case of *Pacis v. Geronimo*,³⁹ a writ of preliminary injunction likewise issued by the respondent Judge in a pending seizure and forfeiture proceeding was annulled by this Court, again on the precise ground of manifest lack of jurisdiction. The petition therefore did not exaggerate matters when it emphasized that respondent Judge, in issuing the writ of preliminary injunction sought to be nullified, acted in a manner contrary to and in violation of the law, assuming jurisdiction over a matter beyond his competence.

WHEREFORE, the writ of certiorari is granted and the order of respondent Judge of January 4, 1971 nullified and set aside. The preliminary injunction issued by this Court in its resolution of February 15, 1971 against the enforcement of the above order is made permanent. Respondent Judge, or whoever is acting in his place and in his stead, is ordered to dismiss Civil Case No. 14178 of Branch II of the Court of First Instance of Rizal, entitled *Juanito S. Flores, doing business under the name and style of J. S. F. Enterprises and Asiatic Incorporated v. the Commissioner of Customs and the Collector of Customs*. Costs against private respondents.

Muñoz Palma, Aquino, and Martin, JJ., concur.

Barredo, J., only because private respondents have submitted the case on the basis of the pleadings below, otherwise, since they have lost interest, We could have issued a brief resolution.

Antonio, J., did not take part.

Concepcion, Jr., J., on leave.

[1] The petition was prepared and filed by the then Solicitor General Felix Q. Antonio, now a member of this Court, assisted by the then Assistant Solicitor General Conrado T. Limcaoco, now a Judge of the Court of First Instance, and Solicitor Jaime M. Lantin, likewise now a Judge of the Court of First Instance.

[2] Annex F of Petition.

[3] Sections 2301, 2303 and 2530 of Republic Act No. 1937 (1957).

[4] Manifestation dated February 27, 1971, 1.

[5] *Ibid*, 2.

[6] *Ibid*, 3.

[7] 105 Phil. 1039.

[8] *Ibid*, 1046. This case arose prior to the effectivity of the Customs and Tariff Code, Republic Act No. 1937 as amended (1957).

[9] 108 Phil. 1 (1960).

[10] 113 Phil. 333 (1961).

[11] 114 Phil. 589 (1962).

[12] 114 Phil. 702 (1962).

[13] 114 Phil. 953 (1962).

[14] L-19564, November 28, 1964, 12 SCRA 493.

[15] L-20489, June 22, 1965, 14 SCRA 331.

[16] L-22259, January 19, 1966, 16 SCRA 1.

[17] L-20803, January 31, 1966, 16 SCRA 133.

[18] L-22989, May 14, 1966, 17 SCRA 11.

[19] L-22511, May 16, 1966, 17 SCRA 36.

[20] L-22990, May 19, 1966, 17 SCRA 61.

21 L-21376, August 29, 1966, 17 SCRA 1001.

22 L-22526, November 29, 1966, 18 SCRA 907.

23 Ibid, 916.

24 Ibid, 917.

25 L-25181, January 11, 1967, 19 SCRA 10.

26 24 Phil. 95.

27 Ibid, 96. Cf. De Joya v. Lantin, L-24037, April 27, 1967, 19 SCRA 893; Cadiz v. Secretary of National Defense, L-25150, Sept. 30, 1968, 25 SCRA 419.

28 L-29043, January 30, 1971, 37 SCRA 381.

29 Ibid, 386.

30 Pacis v. Averia, L-22526, Nov. 29, 1966, 18 SCRA 907; De Joya v. Lantin, L-24037, April 27, 1967, 19 SCRA 893; Romuaidez v. Arca, L-20516, Nov. 15, 1967, 21 SCRA 856; Diosamito v. Balanque, L-30734, July 28, 1969, 28 SCRA 836; and De Joya v. David, L-23504, Dec. 29, 1967, 21 SCRA 1493. Ibid, 386-387.

31 Ibid, 388. Papa v. Mago, L-27360, February 28, 1968, is reported in 22 SCRA 857.

32 L-28235, January 30, 1971, 37 SCRA 327.

33 L-24237, March 31, 1971, 38 SCRA 189.

34 L-32921-40, June 10, 1971, 39 SCRA 533.

35 Ibid, 541.

36 Section 2607 of Republic Act No. 1937 (1957).

37 L-32542, November 26, 1970, 36 SCRA 208.

38 Ibid, 217-218.

39 L-24068, April 23, 1974, 56 SCRA 583.

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