

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ROSARIO B. DE LEON, DEFENDANT AND APPELLANT.***G.R. Nos. L-13567-68. September 30, 1960*

Ponente: BAUTISTA ANGELO, J.

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On August 5, 1957, two informations were filed before the Court of First Instance of Pasay City accusing defendant Rosario B. de Leon of violating (1) Circular 37, as implemented by Circular 60, Section 1(6) of the Central Bank, in relation to Section 34 of Republic Act No. 265 (Criminal Case No. 4100-P), and (2) Circular No. 42, Section 3 (a), as amended by Circular No. 55 of the Central Bank, in relation to Section 34 of the same Act (Criminal Case No. 4101-P).

Accused having pleaded not guilty to the charges, the two cases were tried jointly in the course of which the following facts were established: Rosario B. de Leon was a booked outgoing passenger on the Philippine Air Lines Plane No. P1-770 scheduled to leave for Hongkong from the Manila International Airport, Pasay City, at 12:30 p.m. on August 3, 1957. After the inspection of her luggage by the customs authorities and the declaration by De Leon at the Central Bank counter of the money she had in her possession, she repaired to the area reserved for departing passengers. While there, however, she was accosted by agent Socorro de Guzman who asked her how much money she was carrying to which De Leon answered that she had P100.00 only. De Guzman examined her handbag and found the P100.00 which she had declared. Then De Guzman examined De Leon's passport wallet and found behind its cover the sum of P700.00 and one \$100.00 bill. De Guzman again inquired from the accused if that was all the money she had and receiving an affirmative reply the former invited the latter to the ladies' room for further inspection during which De Guzman found P700.00 sewed at the bottom of De Leon's panties and P1000.00 in each of her breast paddings. De Guzman thereafter took De Leon to agent Beleno who also investigated her and it was then that De Leon made a voluntary statement admitting that agent De Guzman had seized from her person the articles and amounts above referred to. It was also proven that De Leon failed to secure the necessary permit from the Central Bank to carry the excess money found in her possession.

After the prosecution had presented its evidence, defendant filed a motion to dismiss manifesting that if same is denied the cases would be deemed submitted for decision. Subsequently, the trial court denied the motion and rendered decision on February 27, 1958 finding De Leon guilty in both cases as follows:

"(1) In Criminal Case No. 4100-P the accused Rosario B. de Leon is hereby sentenced to suffer imprisonment for three (3) months, pay a fine of Three Thousand (f 3,000.00) Pesos, with subsidiary imprisonment in case of insolvency and to pay the costs. The twenty pieces of one hundred-peso bills, exhibits 'F', 'F-1', to 'F-19', inclusive, and the twenty-eight pieces of fifty-peso bills, exhibits 'F-20' to 'F-47', inclusive, are hereby declared forfeited in favor of the government; and,

"(2) In Criminal Case No. 4101-P the accused Rosario B. de Leon is hereby sentenced to suffer imprisonment for three (3) months, pay a fine of Three Hundred (P300.00) Pesos, with subsidiary imprisonment in case of insolvency and to pay the costs. The one hundred dollar bill (exhibit 'E') is hereby declared forfeited in favor of

the government."

Defendant is now appealing from the above decision contending that the trial court erred in not acquitting her on the following grounds: (1) that Circular No. 42, being merely an implementation of Circular No. 20 which was issued without the approval of the President of the Philippines and contains no provision limiting the period of its operation or enforcement, is null and void; (2) that Circulars Nos. 20 and 42, as amended, contravene the Articles of Agreement of the International Monetary Fund to which the Philippines is a signatory; (3) that the afore-mentioned circulars were issued without the approval of the President of the United States pursuant to the agreement entered into between that country and the Philippines concerning trade and related matters; (4) that the issuance of Circulars Nos. 42 and 37, as amended, cannot be legally based on Sections 74 and 14 of Republic Act No. 265; and (5) since the information filed in Criminal Case No. 4100-P does not allege that the accused did not have the requisite license to carry the money found in her possession, the same fails to state facts sufficient to constitute the crime charged.

The issues raised by appellant are not new. They have already been passed upon by this Court in a number of cases wherein this Court held that Circular No. 20, which was implemented by Circular No. 42, was in fact approved by the President of the Philippines and that, having been issued to combat the exchange crisis that developed in this country, its period of operation need not be expressly stated but that it is deemed co-extensive with the duration of such crisis which up to the present still exists[1]. And with regard to the contention that the above circulars contravene the Articles of Agreement of the International Monetary Fund and were passed without the approval of the President of the United States, this Court in *People vs. Koh*, supra, said:

"As to the international aspect, it is not incumbent upon the prosecution to prove that the provisions of Circular 20 complied with all pertinent international agreements binding on our Government. The Central Bank and the President certify that it accords therewith, and it is presumed that said officials knew whereof they spoke, and that they performed their duties properly. It is rather for the defense to show conflict, if any, between the Circular and our international commitments.

* * * * *

"Appellees' counsel have quoted here some provisions of the International Monetary Fund Agreement. But none of them may be interpreted to prohibit the action taken by our Central Bank. In fact, there are of record, the annual reports of the International Monetary Fund of April 30, 1950 and 1951, commenting on the exchange controls of the Philippines without criticism or opposition. "We are quoted in this connection the following provision in the Agreement between the Philippines and the United States concerning Trade and Related Matters:

* * * * *

"But there is an official statement of the American Embassy in Manila wherein it is said that the United States 'would concur' in the adoption of such temporary measures (exchange controls) by the Philippine Government as might be deemed appropriate for safeguarding the dollar reserves of the Philippines. From the tenor of the statement, one could conclude that the U.S. Government did not object to, even approved the imposition of dollar exchange restrictions." (See also *People vs. Lim Ho*, supra.)

Anent the fourth issue posed by appellant, it is likewise unquestionable that Circulars Nos. 42 and 37, as amended, were legally promulgated by the Monetary Board in the exercise of its power under the law, this Court having ruled that Circular No. 42, as amended, was issued by virtue of the authority granted by Section 74 of Republic Act No. 265 (*People vs. Lim Ho*, supra), while Circular No. 37, as amended, by Section 14, in relation to Sections 2 and 64 of the same Act (*People vs. Exconde*, 100 Phil., 1125), the same having been issued with the primordial purpose of conserving our dwindling dollar reserve and preserving the international value of our peso.

We find, however, merit in the fifth issue, it appearing that the information filed in Criminal Case No. 4100-P fails to state that the accused did not have the necessary license to carry the money that was seized in her possession, and hence the same is fatally defective. As this Court aptly said in *People vs. Capistrano*, 102 Phil., 1025; 54 Off. Gaz. (11) 3499, "in order that the pertinent portion of the circular may be infringed, it is necessary to allege that the outgoing Philippine resident or transient visitor has taken or is about to take out of the Philippines Philippine coins and notes in excess of the exempted amount without the necessary license issued by the Central Bank. An examination of the information does not show any averment of this element. This omission makes the charge alleged in the information insufficient to constitute an offense for which appellant may be convicted and rendered amenable for the penalty prescribed by law." (*Italics supplied.*)

Wherefore, with the modification that the information filed in Criminal Case No. 4100-P (G. R. No. L-13567) should be dismissed without prejudice, the rest of the decision is hereby affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] *People vs. Jolliffe*, 105 Phil., 1242; *People vs. Henderson*, 105 Phil., 859; 56 Off. Gaz. (46) 7031; *People vs. Koh*, 105 Phil., 925; 57 Off. Gaz. (21) 3907; *People vs. Lim Ho*, 106 Phil., 887; *People vs. Tan*, 108 Phil., 667; 60 Off. Gaz. 3420.

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