

ALBERTO DE JOYA, AS ACTING COMMISSIONER OF CUSTOMS (VICE JOSE B. LINGAD) AND PEDRO PACIS, AS ACTING COLLECTOR OF CUSTOMS, PETITIONERS, VS. JUAN T. DAVID AND THE HONORABLE COURT ...*G.R. No. L-23504. December 29, 1967*

Ponente: CONCEPCION, C. J.

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Original action for certiorari and pro-hibition, with preliminary injunction, to dissolve a similar writ issued by the Court of Appeals in CA - G. R. No. 34220-R, entitled "Juan T. David vs. Jose B. Lingad, et al.," and to restrain the said Court from hearing said case, as well as from enforcing t h e writ of preliminary injunction therein issued.

On May 28, 1962, a shipment of thirty-six (36) crates, the contents of which were described in the corresponding bills of lading as "stone grinders," arrived at Manila aboard the "SS MENTOR." Soon thereafter, that same day, without the customs permit required therefor, the cargo was unload-ed shipside unto the barge or lighter "M/L Davao" and then towed by tugboat "DB-18," headed for the Estero-Dead End of Cristobal Street, Pandacan, Manila. Before reaching this destination, a combined team of operatives of the Manila Police Department and the Bureau of Customs swoop-ed down on the barge and inspected the contents of said cases, which turned out to be, not "stone grinders," but highly dutiable goods, such as "Union" and "Salem" ciga-rettes, Ban-lon shirts, French veils, etc. These were ordered seized by the Customs authorities and held under Seizure Identification No. 6439, for alleged violation of Central Bank Circular No. 133, in relation to Section 2530 (f) of the Tariff and Customs Code, and of Section 2530(m)-1 and 5 of the same Code. The lighter and the tugboat were, likewise, seized under Seizure Identification No. 6439-A, for alleged violation of Section 2530(a) of said Code. More-over, on July 31, 1962, Criminal Case No. 65356 of t h e Court of First Instance of Manila was filed, against fifteen (15) persons,[1] for violation of Section 3602 of Republic Act No. 1937, charging them with surreptitiously and fraudulently taking the goods aforementioned from the "SS MENTOR" and bringing said goods into the mainland for the purpose of avoiding the payment of taxes and duties, in the aggregate sum of P1,291,975.61.

On August 1, 1962, Atty. Juan T. David – herein-after referred to as David – appeared at one of the hearings in connection with the seizure proceedings, as counsel for one L. Sino, as alleged shipper of the goods, and S. Y. Chan, as alleged consignee thereof. Upon the completion of the evidence for the Government, David moved to dis-miss the proceedings, but the then Acting Collector of Cus-toms1 – hereinafter referred to as Collector – deferred his resolution on the motion, until the rendition of the decision on the merits, and directed the continuation of the hearing for the presentation of the claimant's2 evidence. Soon later, David, filed an ex parte motion for the release, under bond, of the shipment in question, upon the ground that the same had been in effect stolen from the Customs' premises without Chan' s consent or knowledge; that the goods were shipped to Manila for transshipment to him at Singapore; that the shipment included perishable items; and that Chan could not transship the cargo unless it was released and re-exported under bond. The Collector denied this motion upon the ground, inter alia, that Chan's claim over the shipment in question had not been satisfactorily established and that,

as regards the perishable nature of some of the goods involved, steps had been taken for the sale thereof at public auction, pursuant to Section 2607 of the Tariff Customs Code. David protested against the contemplated sale, but the Collector did not heed the protest. Subsequently, the Collector denied David's motion to dismiss. A motion for reconsideration of the order to this effect was, likewise, denied on February 17, 1964.

Subsequently, or on March 16, 1964, David instituted Civil Case No. 56533 of the Court of First Instance of Manila, against Jose B. Lingad and Pedro Pacis, as Acting Commissioner of Customs and Acting Collector of Customs, respectively, as well as in their personal capacities, for the purpose of securing: (1) a writ of preliminary injunction to restrain the Collector from hearing Seizure Identification Proceedings Nos. 6439 and 6439-A; (2) a writ of mandatory preliminary injunction, commanding respondents therein to surrender to David the cargo in question or so much thereof as had not, as yet, been sold, for transshipment to Singapore or to any foreign port, and to turn over to him the proceeds of the sale made; and (3) a judgment nullifying the corresponding warrant of seizure and detention and all other orders issued in connection therewith, and sentencing the respondents to pay damages.

Required to answer the petition, respondents therein¹ filed a motion to dismiss and objected to the issuance of the writs prayed for by David, for the reason that the Court of First Instance of Manila had no jurisdiction over the case; that he had not exhausted all administrative remedies before coming to court; and that he was not the real party in interest.

Acting upon this motion, which was opposed by David, said court of first instance dismissed the case. A reconsideration of the order to this effect having been denied, David appealed to the Court of Appeals, in which the appeal was docketed as CA-G. R. No. 34220-R. He, also, filed with said Court, on August 31, 1964, a "Motion for Release of the Cargo Involved for Transshipment without or with Bond; or for the Issuance of a Writ of Preliminary Mandatory Injunction and Preliminary Injunction." David prayed therein for the appointment of a qualified surveyor, to determine the present value of the articles in question, so that it may serve as basis for fixing the amount of the bond, and requested authority to transship the cargo to any foreign port (not necessarily Singapore), "as the buyer thereof in Singapore could not be expected to take delivery thereof due to its present value which has been substantially reduced by the deterioration of some items and the depreciation in value of others." David further prayed for an injunction to restrain the Collector from hearing the seizure cases.

Without hearing the respondents therein² a Division of the Court of Appeals approved, on September 7, 1964, a resolution requiring them to answer the aforesaid motion and providing that "upon the filing of a bond in the sum of P5,000.00 duly approved by the Court, a writ of preliminary injunction will be issued as prayed for." The writ was issued on September 8, 1964.

Unaware of said resolution, the Solicitor General filed, on September 8, 1964, an opposition to David's motion of August 31, 1964. Then, upon receipt of notice of the aforementioned resolution, the Solicitor General filed¹ an "Urgent Motion," praying that the enforcement of the writ issued on "September 8, 1964, be held in abeyance pending resolution of the petition for certiorari and prohibition to be filed with the Supreme Court" by the Government. Such petition – for Certiorari and Prohibition with Preliminary Injunction, to restrain the Court of Appeals, *pendente lite*, from hearing CA-G. R. No. 34220-R and from enforcing the writ of preliminary injunction issued by said Court – which marked the institution of the present case, was filed on September 15, 1964, by Alberto de Joya, then Acting Commissioner of Customs, and Pedro Pacis, as Acting Collector of Customs. The next day, this Court issued a resolution restraining the Court of Appeals from hearing CA-G. R. No. 34220 -R and from enforcing the writ of preliminary Injunction therein issued.

Two questions are submitted for our determination, in the present case, namely: (1) the merits thereof; and, (2) a

charge of contempt filed by respondent David.

As regards the merits of this case, it is obvious that the Court of First Instance of Manila had no jurisdiction over the subject-matter of Civil Case No. 56533 thereof, and that neither had the Court of Appeals jurisdiction over the appeal taken from the decision of said trial Court. Indeed, in said Case No. 56533 David sought to obtain possession of the goods which were the object of seizure proceedings before the Collector of Customs. We have already held that such action is beyond the jurisdiction of courts of first instance. In *Pacis v. Averia*, L-22526, Nov. 29, 1966, the following language was used:

"At issue is the jurisdiction of the Court of First Instance of Cavite to entertain Civil Case No. TM-114, and the existence of therein plaintiff's cause of action.

"Petitioners would contend that the jurisdiction of the Bureau of Customs to conduct seizure and forfeiture proceedings of vessels for violation of the Tariff and Customs Code is exclusive of the Court of First Instance. x x x.

"The Tariff and Customs Code, in Section 2530 thereof, lists the kinds of property subject to forfeiture. At the same time, in Part 2 of Title VI thereof, it provides for the procedure in seizure and forfeiture cases and vests in the Collector of Customs the authority to hear and decide said cases. The Collector's decision is appealable to the Commissioner of Customs whose decision is in turn appealable to the Court of Tax Appeals. x x x. 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. x x x.

"Should Section 44(c) of the Judiciary Act of 1948 give way to the provisions of the Tariff and Customs Code, or vice versa? In Our opinion, in this particular case, the Court of First Instance should yield to the jurisdiction of the Collector of Customs. The jurisdiction of the Collector of Customs is provided for in Republic Act 1937 which took effect on July 1, 1957, much later than the Judiciary Act of 1948. It is axiomatic that a later law prevails over a prior statute. Moreover, on grounds of public policy, it is more reasonable to conclude that the legislators intended to divest the Court of First Instance of the prerogative to replevin a property which is a subject of a seizure and forfeiture proceedings for violation of the Tariff and Customs Code. Otherwise, actions for forfeiture of property for violation of Customs laws could easily be undermined by the simple device of replevin.

"Furthermore Section 2303 of the Tariff and Customs Code requires the Collector of Customs to give to the owner of the property sought to be forfeited, written notice of the seizure and to give him the opportunity to be heard in his defense. This provision clearly indicates the intention of the law to confine in the Bureau of Customs the determination of all questions affecting the disposal of property proceeded against in a seizure and forfeiture case. The judicial recourse of the property owner is not in the Court of First Instance but in the Court of Tax Appeals, and only after exhausting administrative remedies in the Bureau of Customs. "

Upon the other hand, the same result would be achieved if said civil case were regarded as an attempt to review the acts and/or resolutions of the Collector of Customs and the Commissioner of Customs in the aforementioned seizure proceedings, inasmuch as such power of review is vested exclusively in the Court of Tax Appeals.¹

Again, the Court of Appeals had no jurisdiction to entertain the appeal from the order of dismissal of the Court of First Instance because the jurisdiction thereof was involved in the appeal and because the amount in controversy exceeds P200,000.00. According to David's petition in the court of first instance, the value of the cargo, as determined by the Collector was "P628,844.87 more or less, " although David alleged that such value "has been reduced to less than two-thirds thereof or P400,000.00," whereas the taxes due thereon, according to the information in Criminal Case No. 65356, amounted to P1,291,975.61, or, pursuant to the decision therein rendered, P1,920,820.48.

It is manifest, therefore, that the writ of preliminary injunction of the Court of Appeals is null and void, and that the writ issued by this Court, on September 16, 1964, should be, as it is hereby made permanent.

The facts relevant to the charge of contempt are: On December 5, 1964, David filed with this Court an "Urgent Motion for Release of Cargo Involved for Transshipment, without or with Bond; Or for the Issuance of a Writ of Preliminary Mandatory Injunction." Required to comment thereon, the Solicitor General filed an opposition thereto, dated December 21, 1964, stating, inter alia, that the original manifest did not disclose that the goods in question were in transit to Singapore, and that the surrounding circumstances indicated that they were destined for Manila. On December 29, 1964, David filed a reply to said opposition and a motion to cite the Collector of Customs for contempt for twice subscribing, under oath, to the statement, in the original petition for certiorari in the Supreme Court, that the cargo was destined for Manila, according to the original Manifest. On January 26, 1965, petitioners herein filed a manifestation attaching thereto a copy of the decision of the Court of First Instance of Manila in Criminal Case No. 65356, convicting some of the accused therein, acquitting the others on the ground of reasonable doubt, and decreeing the forfeiture to the Republic of all the goods in question. Said manifestation added, however, that:

"3. x x x upon verification from the records of Seizure Identification Nos. 6439 and 6439-A, the original manifest of the M. S. Mentor issued by the De la Rama Lines, the ship's local agent, shows that the ship is 'bound for Hongkong to Manila.' Also under the column 'Remarks,' there appears in the handwriting of Atty. Juan T. David, respondent herein, the words 'In transit for Singapore,' which was placed by him during the hearing of the motion for reconsideration of the order of the Collector of Customs denying the motion to dismiss Seizure Identification Nos. 6439 and 6439-A entitled 'Republic of the Philippines, versus 36 Crates various articles, S. Y. Chan, claimant.'

"4. That the original manifest mention-ed above was presented in evidence in said Criminal Case No. 65356 of the Court of First Instance of Manila."

On February 3, 1965, David filed a motion to strike out this manifestation, as well as a counter-manifestation in defense of his integrity, in view of the implication adverse thereto resulting from the allegation that he had inserted, in his own handwriting, on the document introduced by him to prove the claim of his client, the very words on which the claim was based. On February 8, 1965, David charged petitioners herein with contempt of court upon the ground that they had maliciously made the above-quoted statement in their Manifestation of January 25, 1965, as well as statements of similar import in their petition for certiorari in this case dated September 14, 1964, and in their aforementioned opposition, dated December 18, 1964, knowing that said statements were not true.

The record shows that the copy of the manifest, presented in evidence in the seizure identification proceedings, stated that the "SS MENTOR" is "bound from Hongkong to Manila," and that, under the column "Remarks," there appears, in the handwriting of David, the words "In Transit for Singapore," which were written by him during the hearing of his motion for reconsideration of the order of the Collector denying the motion to dismiss said proceedings.

It appears, however, that said insertion was made by David with the authority of the hearing officer of the Bureau of Customs, so that the copy of the manifest, covering the shipment in question and therein introduced in evidence, may conform with the original manifest, which formed part of the evidence introduced in the criminal case; that the Solicitor General was not aware of this circumstance when he made the derogatory averments upon which the charge for contempt is based, because the only records then available for his examination were those of the Bureau of Customs, which showed the addition handwritten by David; and that the records of the criminal

case, to which the original manifest had been attached, were not available for examination at that time, said records being then in the possession of the Judge a quo, pending preparation of his decision therein.

It is, likewise, worthy of note that the Solicitor General revealed the foregoing circumstance to this Court, even before the formal charge for contempt under consideration had been preferred by David on February 8, 1965. Indeed, on February 4, 1965, the Solicitor General had filed an amended Manifestation stating, inter alia,

"That, subject to verification from the records of Criminal Case No. 65336, respondent Juan T. David, who is a lawyer of S. Y. Chan the claimant-consignee of the goods in question in the Bureau of Customs Seizure Identification Case Nos. 6439 and 6439-A, was allowed by the Hearing Officer to insert the words 'In transit for Singapore' in Exhibit 'A' of said seizure proceedings, in order to reflect the information stated under the column remarks in the original copy of the general (original) manifest submitted in evidence in said criminal case;

"That upon examination made of the records of said criminal case, it was found that:

"(a) Exhibit 'A' of the criminal case is the original copy of the general manifest mentioned in paragraph 3 hereof and that Exhibit 'A' of the criminal case contains the printed words 'In transit for Singapore' under the column remarks; consequently, the original manifest stated in paragraph 3, as corrected by Atty. Juan T. David, accurately reflects the information stated in Exhibit 'A' of the criminal case; and

"(b) Exhibit 'CC' of the criminal case, which is the original copy of Annex 6 of Respondents' (herein petitioners) Memorandum, Civil Case No. 56533, also contains the printed words 'In transit for Singapore' under the column remarks; however, the photostat copy of said Exhibit CC, which is Exhibit J, Seizure Proceedings No. 6439 and 6439-A (Also Annex 6 of Respondents' Memorandum, Civil Case No. 56533) does not show such printed words." (Underscoring supplied.)

Everything considered, we are of the opinion that the derogatory statements assailed by David had been made in good faith, and inasmuch as petitioners herein have seasonably made of record additional facts, formerly unknown to them, showing that David had acted above board, the explanation submitted by said petitioners is believed to be satisfactory.

WHEREFORE, the charge of contempt should be, as it is hereby, dismissed, the writ of preliminary injunction issued by the Court of Appeals is nullified and the writ of preliminary injunction issued by this Court made permanent, with costs against respondent Juan T. David. Writ granted.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, JBL, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ., concur.
Dizon, and Fernando, JJ., took no part.

[1] Arturo Jacinto y Yuson, Pablo Delgado y Enriquez, Cecilia David y del Rosario, Falconeri Tatoy y Tumbaganan, John Charles Liptrot, Richard A. Browne, Leopoldo Navarro y Largo, Juanito Nabuab y Victoriano, Santiago Esguerra y Magno, Benigno Delfin y de Mesa, Sofio Bunao y Melga, Cri-santo Arzalud y Camagun, Jose Acuña y Diaz, Kewalran Navalrai Alwani, alias "Kelly," and Eufracio Santos.

2 Teotimo A. Roja

3 S. Y. Chan.

4 Petitioners herein.

5 Petitioners herein.

6. On September 8, 1964.

7 Section 7, Rep. Act 1125; Sec. 2402, Rep. Act 1937; Commissioner of Customs v. Encarnacio, 95 Phil., 439; Millarez v. Amparo, et al., 97 Phil., 282; NAMARCO v. Judge Macadaeg, L-10030, Jan. 18, 1956; Pepsi-Cola Bottling Co. of the Philippines v. Manuel Manahan, et al., L-12096, April 30, 1959; Pacis, et al. v. Averia, et al., L-22526, Nov. 29, 1966; and Auyong Hian (Hong Whua Hang) v. Court of Tax Appeals, et al., L-25181, Jan. 11, 1967.

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