

JOSE G. LOPEZ, PETITIONER-APPELLANT, VS. THE COMMISSIONER OF CUSTOMS, REPARATIONS COMMISSION, DIRECTOR OF THE NATIONAL BUREAU OF INVESTIGATION AND/OR ANY OF THEIR AUTHORIZED AG...

G.R. No. L-28235. January 30, 1971

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal, taken by petitioner Jose G. Lopez, from an order of the Court of First Instance of Manila, dismissing Civil Case No. 67513 thereof.

Sometime in 1964, a conditional contract of purchase and sale was entered into between the Reparations Commission and petitioner Lopez, whereby the former awarded the M/V JOLO LEMA to Lopez in consideration of the total sum of \$174,900, payable on installments, as provided in Republic Act No. 1789, and subject to the condition that the title to and ownership of the vessel shall remain with the Commission until full payment of the stipulated price. After registering the vessel with the Philippine Fisheries Commission and securing therefrom the requisite license in his name, as a fishing vessel, on July 21, 1966, Lopez entered into a contract with one Tomas Velasco, authorizing the latter to supervise and manage the M/V JOLO LEMA in - according to Lopez - only one "legal fishing venture along and within Philippine waters and for no other purpose." On September 19, 1966, the vessel was, however, apprehended, searched and then seized by the Collector of Customs of Davao, at Batjak, Sasa, Davao, and Seizure Identification proceeding No. 25/66 was instituted against said vessel for smuggling into the Philippines 1,408 sacks of Indonesian copra and 86 sacks of Indonesian coffee beans, in violation of section 2530(a) and (k) of the Tariff and Customs Code of the Philippines.

While the seizure proceeding was pending hearing before the customs authorities, on November 11, 1966, the Reparations Commission served upon Lopez a written notice to the effect that, pursuant to paragraph No. 4 of the Terms and Conditions of the contract between them, the same was rescinded for using the vessel in freight (smuggling) instead of fishing, failure, despite repeated demands, to make the first payment without interest and to pay the first installment with interest, due, respectively, on August 28, 1965, and August 28, 1966, and failure to post the requisite insurance coverage, in violation of said contract; that the present possession by the government, through the Bureau of Customs, of the M/V JOLO LEMA was considered by the Commission as a repossession of the vessel on its behalf; and that the payment already made, as well as the overdue amounts under said contract have been forfeited by way of rentals for the use of the vessel.

Apparently anticipating this move of the Commission, Lopez had, the day before, or on November 10, 1966, filed with the Court of First Instance of Manila Civil Case No. 67513 thereof, against "the Commissioner of Customs, the Director of the National Bureau of Investigation, and/or any of their authorized agents or representatives," for mandamus and prohibition with preliminary prohibitory and mandatory injunction. In his petition therein, as

amended on November 28, 1966, and reamended on December 2, 1966, Lopez prayed that "judgment be rendered declaring unlawful, illegal and null and void, as contrary to law, the Seizure Identification No. 25/66 and the seizure and custody over the subject fishing vessel by the respondents and/or their representatives and/or their agents"; that "pending trial on the merits, x x x a preliminary restraining order and/or preliminary writ of prohibitory and mandatory injunction be issued restraining and prohibiting the respondents and/or their representatives and/or their agents from further seizure and custody of said fishing vessel, and/or the Reparations Commission, or its representatives and/or agents, from seizing and taking into their custody said fishing vessel, and instead, all the respondents shall release the custody and deliver the subject fishing vessel" to Lopez; and that, thereafter, said writs be made "permanent and perpetual."

Upon the filing of the original petition in said Civil Case No. 67513, or, on November 10, 1966, Hon. Gaudencio Cloribel, as Executive Judge of the Court of First Instance of Manila, issued a "restraining or status quo order," subject to such action as may be taken by the judge presiding the branch to which the case may eventually be assigned through raffle. On November 22, 1966, the Reparations Commission filed a motion to dismiss, upon the ground of failure of the petition to allege a cause of action against said Commission. Subsequently, the Commissioner of Customs filed a "motion to dismiss with opposition to the petition for a writ of preliminary injunction," upon the ground that, in view of the afore-mentioned seizure proceeding, arising from the involvement of the M/V JOLO LEMA in the smuggling of Indonesian agricultural products into the Philippines, the Court of First Instance of Manila has no jurisdiction to try and decide the case, pursuant to the decision of the Supreme Court, dated November 29, 1966, in *Pacis v. Averia*, G.R. No. L-22526. In due course thereafter, Branch XVI of said court, presided over by Hon. Juan L. Bocar, Judge, issued an order, dated January 26, 1967, denying the writ of preliminary injunction sought by Lopez and dismissing the case, upon the authority of *Pacis v. Averia*, supra. Hence, this appeal taken by Lopez directly to the Supreme Court, upon the ground that only questions of law would be taken up therein.

The main question for determination in this appeal is whether or not the Court of First Instance of Manila has jurisdiction to interfere with the Seizure Identification proceeding No. 25/66 pending before the Commissioner of Customs, on account of the Indonesian agricultural products smuggled into the Philippines through the use of the M/V JOLO LEMA. A similar question was decided by this Court in the negative in the aforementioned case of *Pacis v. Averia*, supra, upon which Judge Bocar relied. In that case, We held:

"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. An aggrieved party may appeal from a judgment of the Court of Tax Appeals directly to this Court. On the other hand, Section 44(c) of the Judiciary Act of 1948 lodges in the Court of First Instance original jurisdiction in all cases in which the value of the property in controversy amounts to more than ten thousand pesos. 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. This is precisely what took place in this case. The seizure and forfeiture proceedings against the M/B 'Bukang Liwayway' before the Collector of Customs of Manila, was stifled by the issuance of a writ of replevin by the Court of First Instance of Cavite.

"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."

This view has been repeatedly reiterated by this Court^[1] and We find no plausible reason to depart therefrom in the case at bar.

Invoking section 5 of Republic Act No. 3512, which provides, in part, that -

"All powers, functions and duties heretofore exercised by the Bureau of Customs, Philippine Navy and Philippine Constabulary over fishing vessels and fishery matters are hereby transferred to and vested in the Philippine Fisheries Commission x x x."

Lopez maintains that whatever powers the Commissioner of Customs had, prior thereto, over seizure identification proceedings had been transferred to the Philippine Fisheries Commission. This pretense is manifestly devoid of merit. Said section 5 of Republic Act No. 3512 merely transfers to the Philippine Fisheries Commission the powers, functions and duties of the Bureau of Customs, the Philippine Navy and the Philippine Constabulary over fishing vessels and fishery matters. Such transfer should be construed in the light of section 1 of said Republic Act No. 3512, reading:

"It is hereby declared a national policy to encourage, promote and conserve our fishing resources in order to insure a steady and sufficient supply of fish, and other fishery products for our increasing population, and to reduce to a minimum level possible the importation of such produce so as to help stabilize the national economy by enlarging the office charged with the development, improvement, management and conservation of our fishery resources."

It is clear that the powers transferred to the Philippine Fisheries Commission by Republic Act No. 3512 are limited to those relating to the "development, improvement, management and conservation of our fishery resources." All other matters, such as those concerning smuggling, particularly of agricultural products, into the Philippines, are absolutely foreign to the object and purpose of said Act and could not have been and were not transferred to the aforementioned Commission. Seizure Identification proceeding No. 25/66 for the smuggling of Indonesian agricultural products into the Philippines is certainly beyond the jurisdiction of the Philippine Fisheries Commission.

It is urged that, pursuant to section 2530 of the Tariff and Customs Code, which provides:

"Property subject to forfeiture under tariff and customs laws. - Any vessel or aircraft, cargo, articles and other objects shall, under the following conditions, be subject to forfeiture:

"a. Any vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of articles into or from any Philippine port or place except a port of entry; and any vessel which, being of less than thirty tons capacity shall be used in the importation of articles into any Philippine port or place except into a port of the Sulu sea where importation in such vessel may be authorized by the Commissioner, with the

approval of the department head.

"xxx xxx xxx

the M/V JOLO LEMA is not subject to forfeiture, inasmuch as Davao is a port of entry. This is neither the time nor the place to pass upon the merits of this contention. Suffice it to say that, if petitioner feels it is a good defense, the proper place to set it up is in Seizure Identification proceeding No. 25/66. If the Commissioner of Customs overrules such defense and decrees the forfeiture of the vessel, Lopez may appeal to the Court of Tax Appeals, whose decision may, in turn, be reviewed by the Supreme Court. In other words, said section 2530 does not justify interference by the Court of First Instance in Seizure Identification proceeding No. 25/66. In the language of *Ponce Enrile v. Vinuya, et al.*²:

"Respondents, however, notwithstanding the compelling force of the above doctrines, would assert that respondent Judge could entertain the replevin suit as the seizure is illegal, allegedly because the warrant issued is invalid and the seizing officer like-wise was devoid of authority. This is to lose sight of the distinction, as earlier made mention of, between the existence of the power and the regularity of the proceeding taken under it. The governmental agency concerned, the Bureau of Customs, is vested with exclusive authority. Even if it be assumed that in the exercise of such exclusive competence a taint of illegality may be correctly imputed, the most that can be said is that under certain circumstances the grave abuse of discretion conferred may oust it of such jurisdiction. It does not mean however that correspondingly a court of first instance is vested with competence when clearly in the light of the above decisions the law has not seen fit to do so. The proceeding before the Collector of Customs is not final. An appeal lies to the Commissioner of Customs and thereafter to the Court of Tax Appeals. It may even reach this Court through the appropriate petition for review. The proper ventilation of the legal issues raised is thus indicated. Certainly a court of first instance is not therein included. It is devoid of jurisdiction."

Lastly, petitioner argues that the Reparations Commission may not unilaterally rescind its conditional contract of purchase and sale in his favor and that the Commission must first seek a judicial declaration of rescission of said contract. Well-settled is, however, the rule that a judicial action for the rescission of a contract is not necessary where the contract provides that it may be revoked and cancelled for violation of any of its terms and conditions.

"x x x The validity of the stipulation cannot be seriously disputed. It is in the nature of a facultative resolutive condition, which in many cases has been upheld x x x."³

The contract of conditional sale in favor of Lopez expressly grants the Reparations Commission the option to rescind the contract in the event of non-compliance by Lopez with the provisions thereof. Paragraph No. 4 of the Terms and Conditions of said contract explicitly provides:

"Should the Conditional Vendee fail to pay any of the yearly installments when due, or utilize the goods for any illicit purpose or for purposes other than that for which the goods have been procured, or otherwise fail to comply with any of the terms and conditions of this contract, or with any of the applicable provisions of the Reparations Law and/or of the Rules and Regulations promulgated pursuant thereto, then the Conditional Vendor is hereby given the option to either rescind the contract upon notice to the Conditional Vendee, in which case all sums already paid by the Conditional Vendee shall be forfeited as rentals in favor of the Conditional Vendor, and also that the Conditional Vendee shall deliver to the Conditional Vendor the property subject of this contract or to sue for specific performance in which case the whole amount remaining unpaid under this contract shall immediately become due and payable, and in either case whether the suit is for rescission or specific performance, the Conditional Vendee shall be liable to pay the Conditional Vendor in the concept of liquidated damages equivalent to 10% of the total procurement value of the goods."

WHEREFORE, the order appealed from is hereby affirmed, with costs against petitioner, Jose G. Lopez.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Villamor, and Makasiar, JJ., concur.
Teehankee and Barredo, JJ., no part.

[1] De Joya v. Lantin, L-24037, April 27, 1967; Romualdez v. Arca, L-20516, November 15, 1967. Papa v. Mago, L-27360, February 28, 1968; Diosamito v. Balanque, L-30734, July 28, 1969; Ponce Enrile v. Vinuya, L-29043, January 30, 1971.

2 L-29043, January 30, 1971.

3 Ponce Enrile vs. Hon. Court of Appeals, L-27549, September 30, 1969; Froilan vs. Pan Oriental Shipping Co., L-11897, October 31, 1964; De la Rama Steamship Co., Inc. vs. Tan, L-8784, May 21, 1956; Taylor vs. Uy Tieng Piao, 43 Phil. 873.

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