

GONZALO N. RUBIC, PETITIONER, VS. AUDITOR GENERAL, RESPONDENT.*G. R. No. L-9507. January 29, 1957*

Ponente: FELIX, J.

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In his counter-statement of facts the Solicitor General makes a fair and accurate narration of the same. They are as follows: Alfredo Lladoc and Valentin Garcia imported potatoes after having previously obtained an import license therefor under Republic Act No. 650. This importation, which was authorized for seedling purposes in accordance with the terms of the covering import license, found its way in the market after having been released by the Bureau of Customs upon the payment of the usual customs duties and other charges. Petitioner learned of this anomaly and informed the Mayor of the City of Manila, sometime in August, 1952, that the importers were disposing of the potatoes in question for commercial purposes, in violation of their import license. Acting upon this information, the City Mayor dispatched a team of police officers who, armed with search warrants, some of which were issued at the instance and upon the oath of petitioner, were able to seize 3,049 crates of potatoes.

In view of such infringement of the law, the importers were charged with a violation of the provisions of Republic Act No. 650, in the Court of First Instance of Manila (Criminal Case No. 20118). They pleaded guilty to the charge and Judge Magno S. Gatmaitan rendered decision on November 21, 1952, sentencing Alfredo Lladoc and Valentin Garcia to pay each a fine of P2,000. The potatoes in question were ordered confiscated and sold at public auction. From their sale there were realized net proceeds of F49,729.80, which the Clerk of Court deposited in the Treasury of the Philippines to the credit of the Court of First Instance of Manila and for the

On February 21, 1953, petitioner filed with the Mayor of the City of Manila a formal claim for reward under the provisions of Section 1411 of the Revised Administrative Code pointing to the fact that the information he furnished led to the seizure of the potatoes, conviction of the importers and the confiscation and sale of the potatoes in question (p. 84, Rec). After a series of indorsements from the Office of the City Mayor which recommended propitious consideration (3rd indorsement dated May 27, 1953, p. 38, Rec), after he received a favorable opinion from the City Fiscal, who held that Gonzalo N. Rubic was entitled to the reward (14th indorsement dated May 6, 1953, p. 70, Rec), the Acting Commissioner of Customs held (18th indorsement dated November 29, 1954, p. 25-26, Rec) that the information given by petitioner did not concern a fraud upon the customs revenue by which the Bureau might have been defrauded and denied petitioner's claim. The matter was finally referred to the Auditor General, who, in his 24th indorsement dated May 20, 1955 (p. 3-4, Rec), also held the same opinion that under the provisions of section 1411 of the Revised Administrative Code, the information given by the petitioner did not refer to any fraud upon the customs revenue within the purview of said section and denied petitioner's claim for reward.

From this ruling of the Auditor General petitioner appealed to this Court and in this instance his counsel maintains that the respondent Auditor General erred:

- In not considering the proceeds from the sale at public auction of the 3,049 crates of the confiscated potatoes in the amount of P49,481 as customs revenue within the meaning of section 1411 of the Revised Administrative Code;
- In not considering the fraudulent representation made by importers Alfredo Lladoc and Valentin Garcia in procuring their import license for the importation of the potatoes in question for seedling but disposed of for commercial purposes, as a fraud upon
- In not considering: Republic Act No. 650 as part of the Customs Law;
- In not interpreting the reward provision of Sec. 1411 of the Revised Administrative Code liberally in favor of the petitioner and strictly against the Government; and
- In not allowing the claim for reward of petitioner in the amount of P10,000 under section 1411 of the Revised Administrative Code,

Upon going over the records of this claim, we find that both parties have adduced good and tenable reasons in support of their respective conflicting stands. According to the Solicitor General, the crux of this appeal hinges upon the sole question of whether, upon the facts given, the act of the importers in diverting the potatoes in question to the market, a purpose other than that for which they were authorized to import the same, and concerning which it is admitted that petitioner gave information to the Mayor of the City of Manila, constitutes "fraud upon the customs revenue", as the term is found in Section 1411 of the Revised Administrative Code, relied upon by petitioner. The Auditor General maintains the negative because:

(a) The fraudulent acts refer to "entry of imported or dutiable exported merchandise * * * by means whereof the Government of the Republic of the Philippines might be deprived of the lawful duties * * * accruing from the merchandise", while in the case at bar the goods in question were imported under a valid license, and under section 2 of Republic Act No. 650, "An Act to Regulate Imports and For Other Purposes", no. other government instrumentality or agency other than the agency designated or created by the President to assist him to implement such act was authorized to qualify or question the validity of any license duly issued, which upon its presentation and the payment of the corresponding customs duties and other charges would cause the release of the goods involved by the Customs to the importers, and. it is to be noted that potatoes imported for planting purposes pay the SAME rate of duty as those imported for consumption (23rd indorsement of Acting Commissioner of Customs - p. 10, Rec).

(b) Once outside the jurisdiction of the Bureau of Customs, it is not incumbent upon this Bureau to ascertain if the goods released are channelled into the market, specially when the information furnished the Mayor was not furnished to the Bureau of Customs by the petitioner. If, contrary to the terms of their importation license, the importers destined the potatoes for consumption instead of for seedling, that is a violation for which the offenders could be, as they were, prosecuted and sentenced under the provisions of Republic Act No. 650, particularly Section 18 thereof which penalizes, among others, "any material misrepresentation in any document required by this Act. Consequently, the imposition of the penalty of £2,000 to each of the importers and the confiscation of the potatoes were in virtue of said prosecution and not as a result of "any fraud upon the customs revenue".

Predicated on the facts stated above, the Solicitor General contends that it is indubitable:

- (1) That the act of the importers in diverting the potatoes to the market instead of utilizing them as seedlings, did not constitute a fraud upon customs revenue, since customs duties thereon had been duly paid; that it is immaterial that these potatoes were manifested for seedling or consumption since they are subject to the same rate of duties; and that the importers made a fraudulent misrepresentation in the procurement of their import license and not in the act of importation of said merchandise.
- (2) That the proceeds from the sale at public auction of the potatoes in question did not accrue as customs revenue recovered in virtue or as a result of the

information given by petitioner; that the forfeiture was not in any sense the forfeiture as the term is used and understood in our Customs Law, nor the proceeds were realized from customs duties, surcharges, fines or penalties, from which payment of rewards is authorized to be taken, but from the sale at public auction of the potatoes which were confiscated and forfeited as a consequence of a crime (Article 45 RPC) and in a criminal prosecution for violation of Republic Act No. 650.(3) That petitioner's contention to the effect that Republic Act No. 650 is part of the Customs Law is untenable, because the same "is not subject to enforcement by the Bureau of Customs or otherwise within its jurisdiction", for the jurisdiction of that Bureau includes only those enumerated in Section 1139 of the Revised Administrative Code. As a matter of fact, in enacting Republic Act No. 650 Congress not only vested the power to issue licenses in the President of the Philippines through such existing board or instrumentality of the Government as he may choose to create (section 1), but in no uncertain terms excluded any other Government instrumentality or agency to qualify or question the validity of any license so issued.

Summarizing his points of view the Solicitor General says the following:

"(1) The information furnished by petitioner concerning the channelling into the market of potatoes imported for seedling purposes does not refer to any fraud upon the customs revenue within the purview of Section 1411 of the Revised Administrative Code, but a violation of the provisions of Republic Act No. 650; (2) The proceeds for the sale at public auction of the potatoes in question did not accrue as customs revenue which, under said section 1411 should be recovered as a result of such information, but only as an increment to the general fund of the Government; and (3) The confiscation and forfeiture which have taken place in the present case is not the forfeiture referred to in Sections 1411 and 1363 of the Revised Administrative Code, but one which was incident to the criminal conviction (Art. 45, Revised Penal Code)."

On the other hand, it may be stated in support of the stand of the herein petitioner, that while the latter's claim was being processed in the Bureau of Customs, Auditor M. Escobar, assigned to the Bureau of Customs, said in his memorandum of February 12, 1955 (pages 55-56, Rec.) the following:

"Under Republic Act 650, importation of potatoes was only allowed if to be used as seedlings. In view of the misrepresentation of facts in the securing of the license for the importation of potatoes, the importation of same was authorized on condition that said importation would be used for propagation purposes. It is believed that this condition existed not only while the importation was within the customs premises (before the release) but also up to the actual planting of those potatoes (after the release). In the instant case, the violation of Republic Act 650 was committed after the release of the importation in question. The City authorities effected the seizure and sale at public auction of the potatoes as a consequence of the violation of the said Republic Act 650. But, as stated above, the net proceeds from the sale of said potatoes was neither deposited with the Treasury of the Philippines to the credit of the Bureau of Customs nor remitted to said Bureau." In view of the foregoing and also of the fact that the potatoes involved herein merely escaped seizure and forfeiture under Custom Laws (section 1363-m-3 of the Revised Administrative Code), this Office believes that, had the proceeds from the sales of those potatoes been credited to the Bureau of Customs, the informer who furnished the necessary information leading to the discovery of the fraud is (would be) entitled to the reward herein claimed under section 1411 of the Administrative Code. In other words, even if the herein claimant is entitled to the reward it will not be proper for the Bureau of Customs to pay him such reward because the proceeds from the sales of those potatoes were not credited to the said Bureau"

But as Auditor Escobar considered that this was the first case of its nature that had been received by his Unit, he suggested that the matter be referred to the Law Division of the Auditor General's Office for further study and consideration and final decision.

It is to be noted that the proceeds of the sale of the forfeited potatoes amounting to P49,729.80, though not credited to the Bureau of Customs, inured just the same to the benefit of the Government of the Philippines and

served to increase its general fund. The act of the Clerk of the Court of First Instance of Manila in charging said amount to the credit of the Court of First Instance of Manila is of no consequence for the result would have been just the same if said money had been delivered to the Bureau of Customs or deposited to its credit in the Insular Treasury. For a better consideration and discussion of the problem herein involved, we copy here-under the provisions of the law as well as the portion of the Customs Administrative Order No. 132 that are pertinent to the matter. They are the following:

"Sec. 1411. Reward for Information Concerning Fraud upon the Revenue.-When any person except a customs officer or employee or other public official, shall furnish definite information concerning any fraud upon the customs revenue, by whomsoever perpetrated or contemplated, which shall result in the recovery of revenue, the conviction of the guilty party, or the imposition of any surcharge, fine or penalty, or the forfeiture incurred of any of the property enumerated in section thirteen hundred and sixty-three of the code, such person shall be rewarded in accordance with the following schedule but not exceeding in any case the sum of ten thousand pesos.

***** (e) In case of public sale of property seized as the result of the information so furnished," fifty per centum of the proceeds of the sale after deducting only the charges specified in subsections (a) and (e) of section thirteen hundred and ninety-seven of this Code." (Revised Administrative Code.)

The pertinent provisions of Sections 1363 referred to in the aforequoted section 1411, read as follows:

"Sec. 1363. Property Subject to Forfeiture Under Customs Law.—Vessels, cargo, merchandise and other objects or things shall, under conditions herein below provided, be subject to forfeiture.*****

(/) Any merchandise of prohibited importation or exportation of which is effected or attempted contrary to law, and all other merchandise which, in the opinion of the Collector have been used, are or were intended to be used as instrument in the importation or exportation of the former (as amended by section 1 of Republic Act No. 454).

Customs Administrative Order No. 132, approved August 29, 1951, providing for the rules and regulations governing the giving of rewards to informers for furnishing information concerning revenue, imposes the following conditions:

- a. That the informer is not a government official or employee;
 - b. That the information must be furnished in writing, giving the nature of the fraud and the place where it will be committed;
 - c. That the information was given to the Commissioner of Customs or any government official;
 - d. That the information was furnished before the fraud was discovered by any government official;
 - e. That the information resulted in the discovery of the fraud, the conviction of the guilty party, or the imposition of any fine or penalty, or the forfeiture of any of the property; and
 - f. That the informer shall be entitled to a reward which shall not exceed in any case the sum of P10,000."
- "Sec. 2703. Vicious Fraudulent Practices Against Customs Revenues.-Any person who makes or attempts to make any entry of imported or dutiable exported merchandise by means of any false or fraudulent invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice whatsoever, or shall be guilty of any willful act or omission by means whereof the Government of the Republic of the Philippines might be deprived of the lawful duties, or any portion thereof, accruing from the merchandise or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, shall, for each offense, be punished by a fine of not less than six hundred pesos but not more than five thousand pesos and by imprisonment for not less than six months nor more than two years and, if the offender is an alien, he may be subject to deportation." (Of the Adm. Code, as amended by section 2, Republic Act No. 455).

The record of this case discloses that the information furnished by Gonzalo N. Rubic, who is not a public official,

was verbally given, to the Mayor of the City of Manila and that the Commissioner of Customs was not informed thereof prior to the confiscation of the crates of potatoes. The aforementioned section 1411 does not require that the information be in writing and that a copy of the same be furnished the Commissioner of Customs in order to entitle the informer to the reward as prescribed by Customs Administrative Order No. 132 issued by the Commissioner of Customs in the exercise of his power to implement by such regulations as may be necessary, the enforcement of said section. But as stated by former City Fiscal Angeles, "in requiring that the information be in writing and a copy thereof furnished the Commissioner of Customs the purpose was perhaps to ascertain the identity of the informer, prevent false and fictitious reports and claims and avoid conflict of claims for reward or misdelivery thereof. These requirements, however, do not become essential where the evils sought to be avoided by the Customs Administrative Order are wanting. In the instant case the identity of the informer is not in issue, the report was true and there is no conflict of claims for the reward. There seems to be no circumstance that would preclude the granting of the reward to the informant. Assuming, even, that these further conditions are essential to the granting of the reward, it appearing that, as represented in the within papers, the informant was a deponent in some of the search warrants issued by the Honorable Judge Almeda Lopez which thereby brought about the confiscation of the potatoes in question, the declarations of the informant in the application for search warrants may serve as a report in writing and a notice to all that potatoes were being sold in violation of the law" (p. 70, Rec).

Section 1411 of the Revised Administrative Code provides for reward for information concerning fraud upon the customs revenue which resulted, among others, (a) in the recovery of revenue; (b) in the conviction of the guilty party; or (c) in the forfeiture incurred of any of the property enumerated in section 1363 of this Code. In the case at bar, the information furnished by the petitioner not only resulted in the conviction of the guilty parties prosecuted in the criminal case and the forfeiture of the potatoes in question, but also rendered the Government an unexpected income of P49,729.80. Now, may this income be considered as included in the term "customs revenue" used in said section 1411 of the Administrative Code? Section 2703 of this Code as amended by section 2 of Republic Act No. 455, also quoted above, defines two kinds of fraudulent practices against customs revenue, the first being the act of any person who makes any entry of imported merchandise by means of any false or fraudulent invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by any means of false or fraudulent practice whatsoever, and it is to be noted with regard to this kind of fraudulent practice against customs revenue, that it does not require as an essential element of the offense defined in said section, that "the Government of the Republic of the Philippines might be deprived of the lawful duties, or any portion thereof, accruing from the merchandise or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by said act or omission", which requisite or element is only necessary to establish the second kind of fraudulent practices against customs revenues punished as a criminal offense in said Section 2703, as amended. There is no denial that in the case at bar, Alfredo Lladoc and Valentin Garcia caused the entry of imported merchandise by means of false and fraudulent declarations, affidavits and papers, and although they were prosecuted and convicted under the provisions of Republic Act No. 650, yet they were sentenced and punished for acts that section 2703 considers as fraudulent practice against the customs revenue even though the Government was not deprived of any lawful duties accruing from the merchandise. Therefore, in construing the meaning of the words "customs revenue" We should not give them the restricted meaning indicated by the Solicitor General but the more liberal interpretation that would include, any kind of income, or money derived from the sale of imported merchandise validly and legally seized and forfeited to the Government. And that the merchandise confiscated and sold at public auction in the case at bar is a property subject to forfeiture under the Customs Law cannot be denied, because paragraph (1) of section 1363 of the Revised Administrative Code, as amended by section 1 of Republic Act No. 454, authorizes the forfeiture of any merchandise of prohibited importation when the importation thereof is effected contrary to law, as in the case at

bar, because Alfredo Lladoc and Valentin Garcia, in open violation of the law, succeeded in bringing in the Philippines merchandise of prohibited importation, such as potatoes for consumption.

Although We have stated before that the reasons adduced by both parties in support of their respective contentions are good and tenable, yet in deciding this case We have to choose which, among them, have more suasive power, and in so doing, We feel inclined to accept the stand taken by the petitioner as more in consonance with the aforementioned provisions of the law. We are not sympathetic with "informers" that in plying their trade are after the compensation provided by law for their work. But We cannot lose sight of the fact that after the liberation of this country by the American forces, the standard of our morals has allegedly "plummeted" to a low level; that graft and corruption is said to be rampant in many Government offices; and that the idea of get-rich-quick is deeply instilled in the minds of the people not only in the Philippines but the world over. All these considerations joined together make it necessary that the informers that have succeeded in furnishing data that secured the prosecution and conviction of law violators and wrongdoers and/or the confiscation of their ill-gained properties, should be compensated as otherwise the informers would have no forceful incentive to perform their work. If by a mere technicality of the law an informer who has succeeded, as petitioner has succeeded in this case, would not be adequately compensated, the Government would lose a positive means of checking the anomalies that are committed in Government offices or by unscrupulous individuals to the detriment, in most cases of the finances of the State.

Wherefore, and on the strength of the foregoing considerations, We declare that petitioner is entitled to the reward he claims in the amount of P10,000, which is hereby ordered paid to him from the sum of F"49,729.80, proceeds of the sale at public auction of the potatoes in question which were delivered to the Insular Treasury, to the credit of the Court of First Instance of Manila and which for the purpose of this case and up to the amount of P10,000 are considered deposited in said Treasury as trust fund to meet petitioner's claim. Consequently, the decision of the respondent Auditor General in this matter is reversed, without costs. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angela, Labrador, Reyes, J. B. L. and Endencia, JJ., concur.

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