

NATIONAL DEVELOPMENT COMPANY, ET AL., PETITIONERS AND APPELLEES VS. THE COLLECTOR OF CUSTOMS OF MANILA, RESPONDENT AND APPELLANT.

G.R. No. L-19180. October 31, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

The National Development Company which is engaged in the shipping business under the name of "Philippine National Lines" is the owner of steamship "S.S. Doña Nati" whose local agent in Manila is A. V. Rocha. On August 4, 1960, the Collector of Customs sent a notice to C. F. Sharp & Company as alleged operator of the vessel informing it that said vessel was apprehended and found to have committed a violation of the customs laws and regulations and that it carried an unmanifested cargo consisting of one RCA Victor TV set 21" in violation of Section 2521 of the Tariff and Customs Code. Inserted in said notice is a note of the following tenor: "The above article was being carried away by Dr. Basilio de Leon y Mendez, official doctor of M/S 'Doña Nati' who readily admitted ownership of the same." C. F. Sharp & Company was given 48 hours to show cause why no administrative fine should be imposed upon it for said violation.

C. F. Sharp & Company, not being the agent or operator of the vessel, referred the notice to A. V. Rocha, the agent and operator thereof, who on August 8, 1960, answered the notice stating, among other things, that the television set referred to therein was not a cargo of the vessel and, therefore, was not required by law to be manifested. Rocha stated further: "If this explanation is not sufficient, we request that this case be set for investigation and hearing in order to enable the vessel to be informed of the evidence against it to sustain the charge and to present evidence in its defense."

The Collector of Customs replied to Rocha on August 9, 1960 stating that the television set in question was a cargo on board the vessel and that he does not find his explanation satisfactorily enough to exempt the vessel from liability for violating Section 2521 of the Tariff and Customs Code. In said letter, the collector imposed a fine of P5,000.00 on the vessel and ordered payment thereof within 48 hours with a threat that he will deny clearance to said vessel and will issue a warrant of seizure and detention against it if the fine is not paid.

And considering that the Collector of Customs has exceeded his jurisdiction or committed a grave abuse of discretion in imposing the fine of P5,000.00 on the vessel without the benefit of an investigation or hearing as requested by A. V. Rocha, the National Development Company, as owner of the vessel, as well as A. V. Rocha, as agent and operator thereof, filed the instant special civil action of certiorari with preliminary injunction before the Court of First Instance of Manila against the official abovementioned. The court, finding the petition for injunction sufficient in form and substance, issued ex parte the writ prayed for upon the filing of a bond in the amount of P5,000.00.

Respondent set up the following special defenses: (1) the court a quo has no jurisdiction to act on matters arising from violations of the Customs Law, but the Court of Tax Appeals; (2) assuming that it has, petitioners have not

exhausted all available administrative remedies, one of which is to appeal to the Commissioner of Customs; (3) the requirements of administrative due process have already been complied with and that the written notice given by respondent to petitioner Rocha clearly specified the nature of the violation complained of and that the defense set up by Rocha constitutes merely a legal issue which does not require further investigation; and (4) the investigation conducted by the customs authorities showed that the television set in question was unloaded by the ship's doctor without going thru the customhouse as required by law and was not declared either in the ship's manifest or in the crew declaration list.

On the basis of the stipulation of facts submitted by the parties, the court a quo rendered decision setting aside the ruling of respondent which imposes a fine of P5,000.00 on the vessel Doña Nati payable within 48 hours from receipt. The court stated that said ruling appears to be unjust and arbitrary because the party affected has not been accorded the investigation it requested from the Collector of Customs.

Respondent interposed the present appeal.

When the customs authorities found that the vessel Dona Nati carried on board an unmanifested cargo consisting of one RCA Victor TV set 21" in violation of Section 2521 of the Tariff and Customs Code, respondent sent a written notice to C. F. Sharp & Company, believing it to be the operator or agent of the vessel, and the latter referred the notice to A. V. Rocha, the real operator of the vessel, for such step as he may deem necessary to take, the latter answered the letter stating that the television set was not cargo and so was not required by law to be manifested, and he added to his answer the following: "If this explanation is not sufficient, we request that this case be set for investigation and hearing in order to enable the vessel to be informed of the evidence against it to sustain the charge and to present evidence in its defense." Respondent, however, replied to this letter saying that said television was a cargo within the meaning of the law and so he does not find his explanation satisfactory and then and there imposed on the vessel a fine of P5,000.00. Respondent even went further. He ordered that said fine be paid within 48 hours from receipt with a threat that the vessel would be denied clearance and a warrant of seizure would be issued if the fine will not be paid. Considering this to be a grave abuse of discretion, petitioners commenced the present action for certiorari before the court a quo.

We find this action proper for it really appears that petitioner Rocha was not given an opportunity to prove that the television set complained of is not a cargo that needs to be manifested as required by Section 2521 of the Tariff and Customs Code. Under said section, in order that an imported article or merchandise may be considered a cargo that should be manifested it is first necessary that it be so established for the reason that there are other effects that a vessel may carry that are excluded from the requirement of the law, among which are the personal effects of the members of the crew. The fact that the set in question was claimed by the customs authorities not to be within the exception does not automatically make the vessel liable. It is still necessary that the vessel, its owner or operator, be given a chance to show otherwise. This is precisely what petitioner Rocha has requested in his letter. Not only was he denied this chance, but respondent collector immediately imposed upon the vessel the huge fine of P 5,000.00. This is a denial of the elementary rule of due process.

True it is that the proceedings before the Collector of Customs insofar as the determination of any act or irregularity that may involve a violation of any customs law or regulation is concerned, or of any act arising under the Tariff and Customs Code, are not judicial in character, but merely administrative, where the rules of procedure are generally disregarded, but even in the administrative proceedings due process should be observed because that is a right enshrined in our Constitution. The right to due process is not merely statutory. It is a constitutional right. Indeed, our Constitution provides that "No person shall be deprived of life, liberty, or property without due process of law", which clause epitomizes the principle of justice which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. That this principle applies with equal force to administrative

proceedings was well elaborated upon by this Court in the Ang Tibay case as follows:

* * * The fact, however, that the Court of Industrial Relations may be said to be free from the rigidity of certain procedural requirements does not mean that it can, in justifiable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character.

* * * There are cardinal primary rights which must be respected even in proceedings of this character. The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof. Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented. While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. Not only must there be some evidence to support a finding or conclusion, but the evidence must be substantial. The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. The Court of Industrial Relations or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. The Court of Industrial Relations should, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it." (Ang Tibay, et al. vs. The Court of Industrial Relations, et al., 40 Off. Gaz., No. 11, 7th Sup. p. 29).

There is, therefore, no point in the contention that the court a quo has no jurisdiction over the present case because what is here involved is not whether the imposition of the fine by the Collector of Customs on the operator of the ship is correct or not but whether he acted properly in imposing said fine without first giving the operator an opportunity to be heard. Here we said that he acted improvidently and so the action taken against him is in accordance with Rule 67 of our Rules of Court.

Another point raised is that petitioners have brought this action prematurely for they have not yet exhausted all the administrative remedies available to them, one of which is to appeal the ruling to the Commissioner of Customs. This may be true, but such step we do not consider a plain, speedy or adequate remedy in the ordinary course of law as would prevent petitioners from taking the present action, for it is undisputed that respondent collector has acted in utter disregard of the principle of due process.

Wherefore, the decision appealed from is affirmed. No costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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