

RENATO RAYMUNDO, PETITIONER, VS. HONORABLE ALBERTO R. DE JOYA, AND HONORABLE PEDRO PACIS, IN THEIR CAPACITY AS COMMISSIONER OF CUSTOMS AND ACTING COLLECTOR OF CUSTOMS, RESPECTIV...*G.R. No. L-27733. December 03, 1980*

Ponente: FERNANDO, C.J.

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On the authority of *Nilsen v. Commissioner of Customs*[1] as to the finality of a finding of facts by the Court of Tax Appeals,[2] this petition for review of its decision ordering petitioner to pay a deficiency tax in the amount of P3,675.00 must fail. It was shown that a certain Rafael Cavanna on June 12, 1959 acquired from one Anastacio Teodoro, Jr., a Pontiac Car, Chieftain, Model 1957 Sedan, for P6,000.00 with the former assuming whatever tax liability was due to the Bureau of Customs. In registering such car, Cavanna made it appear that the amount of P7,295.05 was paid to the government by way of customs duties. Cavanna then on February 4, 1963 executed a deed of sale of such car in favor of his wife, Paz Alcantara. According to such deed, the car was purchased only on February 4, 1963, resulting in the payment of P2,428.00 to the Bureau of Customs. As there was some anomaly in the informal entry number for such car, a Warrant of Seizure and Detention was issued on September 16, 1964. The seizure was carried out by the National Bureau of Investigation. The seizure proceedings then took place. The Collector of Customs rendered a decision on November 5, 1964, with this dispositive portion: "[Wherefore], pursuant to the provision of Section 2312 of the Tariff and Customs Code, it is hereby ordered and decreed that the present owner-claimant Paz V. Alcantara should, within thirty (30) days from receipt of this decision, pay to the Bureau of Customs the amount of P3,775.00, after which this seizure proceeding shall be dismissed, otherwise, the said car shall be sold at public auction to satisfy the lien of the Government in the amount mentioned." The Commissioner of Customs sustained the Collector. During the pendency of such case before the Commissioner of Customs, Paz Alcantara sold the car to the petitioner-appellant Renato G. Raymundo.

It was he who filed with the Court of Tax Appeals a petition for review, dated February 3, 1965. As was mentioned, he was unsuccessful. Hence his resort to this Court. The answer of then Solicitor General, now Justice, Antonio P. Barredo reiterated the special and affirmative defense that fraud attended the transfer and registration of the car in question. He was sustained by the Court of Tax Appeals. Thus: "The petitioner does not question the correctness of the computation of the deficiency customs duty and taxes assessed against the car in question. However, he contends that the car is not one of those subject to seizure and/or forfeiture under Section 2530(m) - 1 and 5 of the Tariff and Customs Code as no fraud was committed. The evidence, oral and documentary, presented in the seizure proceedings at the Bureau of Customs (S.I. No. 8309) evinces fraud on the part of Rafael Cavanna and his wife to the prejudice of the Government. They were aware that the car was still liable for customs duties and taxes at the time it was purchased from Anastacio Teodoro, Jr. The provision in the sales agreement which states that the 'Seller (Anastacio Teodoro, Jr.) does not assume any tax liabilities due the Bureau of Customs' served notice to them that taxes were due on the car. In order to escape the payment of duties and

taxes, Rafael Cavanna registered the car in his name at the Motor Vehicles Office in 1959 by using an import entry (No. 670567) which purportedly show that he had paid the duties and taxes to the Government, but which actually pertained to another importation. Later, when the authorities uncovered the deception, Cavanna executed on February 4, 1963, a deed of sale of the car in favor of his wife. The sale was apparently made to the wife to make it appear that the car was acquired by her only in 1963. On the basis of the deed of sale to the wife, only the amount of P2,428.00, instead of P5,203.00, was levied and collected as duty and taxes. These circumstances demonstrates without any shadow of doubt the intention to defraud the Government."^[3]

To repeat, this petition cannot succeed.

1. The language used by the Court of Tax Appeals as to the existence of fraud must be given its due weight and force. It found such nefarious intent on the part of the vendor from whom petitioner obtained this vehicle not merely proved by preponderance of evidence but "without any shadow of doubt." Time and time again, this Court had made clear in categorical language that the finding of facts of the Court of Tax Appeals is entitled to the highest respect. So it has been since *Sanchez v. Commissioner of Customs*.^[4] The latest case in point is *Nilsen* where, in addition to *Sanchez*, sixteen other decisions were cited, starting from *Commissioner v. Priscila Estate*,^[5] and ending with *Commissioner of Internal Revenue v. Ayala Securities Corp.*^[6] We do so again.

2. An attempt to demonstrate that an affirmance of the appealed decision could be denial of procedural due process on the ground that the Commissioner of Customs as well as the Court of Tax Appeals could not reverse what it considered to be a finding of the then Collector of Customs lacks persuasiveness. The very concept of an appeal implies that the authority to which the matter is elevated could by an exercise of independent judgment reach the conclusion it did. The mere fact that there was a difference of point of view between the subordinate and the official of a higher category who can properly entertain such an appeal does not suffice to warrant a disregard of what under the law is impressed with a decisive effect. It would be a task of superfluity to repeat anew what had been so clearly and categorically set forth above in the finding of facts by the Court of Tax Appeals. Only by a showing that there was no substantial evidence could a due process question be raised in accordance with the *Ang Tibay* case.^[7] That element is not present in this case.

WHEREFORE, the petition for review is dismissed for lack of merit. Costs against petitioner.

Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Barredo, J., took no part.

[1] L-27149, March 14, 1979, 89 SCRA 43.

[2] The then Commissioner of Customs was respondent Alberto R. de Joya.

[3] Decision of the Court of Tax Appeals, Annex C to Petition, 5-7.

[4] 102 Phil. 37 (1957).

[5] 120 Phil. 125 (1964).

[6] L-29485, March 31, 1976, 70 SCRA 204.

[7] *Ang Tibay v. Court of Industrial Relations*, 69 Phil. 635 (1940).

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