

PEDRO PACIS, AS ACTING COLLECTOR OF CUSTOMS FOR THE PORT OF MANILA, PETITIONER VS. MANUEL R. PAMARAN, AS ASSISTANT CITY FISCAL OF MANILA, AND RICARDO SANTOS, RESPONDENTS.*G.R. NO. L-23996. March 15, 1974*

Ponente: FERNANDO, J.

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For petitioner Pedro Pacis, then Acting Collector of Customs for the Port of Manila, it was vital that this prohibition proceeding against the then Assistant City Fiscal of Manila, Manuel R. Pamaran, should be instituted. For unless restrained, the prosecutor was bent on continuing with the investigation of a charge of usurpation of judicial functions[1] allegedly committed by him, when in the course of his official functions and pursuant thereto, he issued a warrant of seizure and detention for an automobile owned by respondent. Ricardo Santos, who, according to the records in his office, had not paid the customs duty collectible thereon. To counter such a move, and invoking what he alleged was a violation of the constitutional provision that only a judge, under the 1935 Constitution could issue a search warrant,[2] respondent Santos filed the aforesaid complaint for usurpation. Based on such an assumption and with petitioner clearly not being a member of the judiciary, there was plausibility in the claim that he ran afoul of the penal law. While the matter was pressed with vigor by Attorney Juan T David, counsel for respondent, the applicable legal doctrine is on the side of petitioner. It is a well-settled principle that for violations of customs laws, the power to issue such a warrant is conceded. Thus there is justification for this prohibition suit against respondent Assistant City Fiscal. On the undisputed facts and in accordance with the controlling legal doctrine, no such offense as usurpation of judicial function could have been committed. Clearly then, respondent Assistant City Fiscal should be restrained. So we rule and grant the writ prayed for

The relevant facts are not in dispute. Respondent Ricardo Santos is the owner of a Mercury automobile, model 1957. It was brought into this country without the payment of customs duty and taxes, its owner Donald James Hatch being tax-exempt. It was from him that respondent Santos acquired said car[3] On June 25, 1964, he paid P311.00 for customs duty and taxes. Petitioner on July 22, 1964 received from the Administrator, General Affairs Administration of the Department of National Defense, a letter to the effect that the Land Transportation Commission reported that such automobile was a "hot car." By virtue thereof, petitioner, through his subordinates, looked into the records of his office. Thus he did ascertain that although the amount of P311.00 was already paid for customs duty, the amount collectible on said car should be P2,500.00, more or less. Based on such discrepancy, on July 22, 1964, he instituted seizure proceedings and issued a warrant of seizure and detention. On the strength thereof, the automobile was taken while it was parked on Economia Street, Manila. by Department of National Defense agents who were authorized to do so by virtue of the said warrant. It was then brought to the General Affairs Administration compound. Then on August 26, 1964, respondent Ricardo Santos, through counsel, wrote to the petitioner asking that such warrant of seizure and detention issued against his car be withdrawn or dissolved and the car released on his contention that the issuance of the warrant was unauthorized.

He likewise threatened to proceed against the petitioner for violation of Article 241 of the Revised Penal Code and for damages. Petitioner on August 31, 1964 answered counsel of respondent Ricardo Santos, denying the request for the release of the car and averting that the petitioner had, under the law, authority to issue such warrant of seizure and detention. What followed was the filing by respondent Ricardo Santos on September 15, 1964 of a criminal complaint for usurpation of judicial functions with the City Fiscal of Manila. It was assigned to then respondent Fiscal Manuel R. Pamaran for preliminary investigation. As the latter respondent was bent on proceeding with the charge against petitioner, this action was instituted.[4]

Thus the significance attached to the jurisdictional question posed was evident. There was moreover the necessity for a definite ruling as to whether petitioner in the discharge of his official function did lay himself open to a criminal prosecution for usurpation of judicial functions, the drive against "hot cars" being then at its height. Not much reflection was needed to show the chilling effect of a criminal prosecution of this nature on the vigorous enforcement of customs laws. This Court therefore required respondent to answer so that the matter could be fully ventilated. It was duly forthcoming, stress being laid on the alleged infraction of the constitutional mandate that a warrant of search and seizure, to be valid, must be the product of a judicial determination. The question before this Tribunal is thus clear-cut and well-defined.

As set forth at the outset, the law on the matter is clear. It is undeniable that petitioner, as Acting Collector of Customs for the Port of Manila, had the requisite authority for the issuance of the contested warrant of seizure and detention for the automobile owned by respondent Ricardo Santos. What was done by him certainly could not be the basis of a prosecution for the usurpation of judicial functions. Prohibition is therefore the proper remedy.

1. It is to be admitted that the constitutional right to be free from unreasonable search and seizure must not be eroded or emasculated. The right to privacy so highly valued in civilized society must not be diluted. Only upon compliance then with the proper requisites mandated by law should one's possessions be subject to seizure. That much is clear. Under the 1935 Constitution the intervention of a judge was well-nigh indispensable. So it was under the Philippine Bill of 1902 and the Philippine Autonomy Act of 1916. Even then, however, as shown by the leading case of *Uy Kheyting vs. Villareal*,^[5] a 1920 decision, it was the accepted principle following the landmark case of *Boyd vs. United States*^[6] that the seizure of goods concealed to avoid the duties on them is not embraced within the prohibition of this constitutional guarantee.^[7] More to the point. In a recent decision of this Court, *Papa vs. Mago*,^[8] where the seizure of alleged smuggled goods was effected by a police officer without a search warrant, this Court, through Justice Zaldivar, stated: "Petitioner Martin Alagao and his companion policemen had authority to effect the seizure without any search warrant issued by a competent court. The Tariff and Customs Code does not require said warrant in the instant case. The Code authorizes persons having police authority under Section 2203 of the Tariff and Customs Code to enter, pass through or search any land, inclosure, warehouse, store or building, not being a dwelling house; and also to inspect, search and examine any vessel or aircraft and any trunk, package, box or envelope or any person on board, or stop and search and examine any vehicle, beast or person suspected of holding or conveying any dutiable or prohibited article introduced into the Philippines contrary to law, without mentioning the need of a search warrant in said cases. But in the search of a dwelling house, the Code provides that said 'dwelling house may be entered and searched only upon warrant issued by a judge or justice of the peace * * *.' It is our considered view, therefore, that except in the case of the search and seizure without a search warrant in the enforcement of customs laws."^[9]

The plenitude of the competence vested in customs officials is thus undeniable. No such constitutional question then can possibly arise. So much is implicit from the very language of Section 2205 of the Tariff and Customs Code.^[10] It speaks for itself. It is not susceptible of any misinterpretation.^[11] The power of petitioner is thus manifest. It being undeniable then that the sole basis for an alleged criminal act performed by him was the

performance of a duty according to law, there is not the slightest justification for respondent Assistant City Fiscal to continue with the preliminary investigation after his attention was duly called to the plain and explicit legal provision that did not suffer at all from any constitutional infirmity. The remedy of prohibition lies.

2. The depth of the concern expressed by the Solicitor-General as counsel for petitioner is easily understandable. No revenue official can be expected to display the proper zeal in plugging all the loopholes of tax or tariff statutes if the risk of a criminal prosecution is ever present. At the same time, in fairness to respondent Santos, his insistence on procedural regularity, especially so where there is an alleged invasion of a constitutional right, was in keeping with the soundest legal tradition. The rule of law would be meaningless if what is ordained by the fundamental law could be ignored or disregarded. From the foregoing, there was no such infringement. What was done by petitioner was strictly in accordance with settled principles of law. No doubt need be entertained then as to the validity of the issuance of the warrant of seizure and detention. His liability for any alleged usurpation of judicial function is non-existent. Such imputation was definitely unfounded. Even if however the matter were less clear, the claim that the search and seizure clause was in effect nullified is hardly impressed with merit. Considering that what is involved is an alleged evasion of the payment of customs duties, what was said by Circuit Judge Hutcheson in the Ginsburg decision[12] possesses relevance. Thus: "Based on the Fourth and Fifth Amendments, this is another of those cases in which appellant and appellee, concerning themselves little with the Constitutional words, seize upon particular words in particular cases to roll them as sweet morsels under their tongues. It may not be doubted that, in respect of searches and seizures, the decisional gloss which constitutes the common law of the Constitution has created in the federal courts a climate of opinion favorable to the citizen, less favorable to his oppressors. Neither may it be doubted that particular decisions have not only struck down particular oppressors but in their vigor and clarity have set up streams of tendency in accord with which later decisions have run. It remains true, however, that each case of this kind is a fact case. The correct decision of each depends not so much upon a higher critical examination of the accumulated decisional gloss as upon a common sense determination of whether, within the meaning of the word the Constitution uses, the particular search and seizure has been 'unreasonable,' that is, whether what was done and found bears a reasonable relation to the authority then possessed and exercised or transcends it to become oppression." [13]

WHEREFORE, the writ of prohibition prayed for is granted and the successor of respondent Manuel R. Pamaran, now a criminal circuit court judge, or any one in the City Fiscal's Office of the City of Manila to whom the complaint against petitioner for usurpation of judicial functions arising out of the issuance of the warrant of seizure and detention, subject-matter of this litigation, has been assigned, is perpetually restrained from acting thereon except to dismiss the same. No costs.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.
Barredo, J., took no part.

[1] According to Article 241 of the Revised Penal Code: "Usurpation of judicial functions.— The penalty of arresto mayor in its medium period to prision correccional in its minimum period shall be imposed upon any officer of the executive branch of the Government who shall assume judicial powers or shall obstruct the execution of any order or decision rendered by any judge within his jurisdiction."

[2] According to Article III; Section 1, par. 3 of the 1935 Constitution: "The right, of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, to be determined, by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce; and particularly describing the place to be searched, and the persons or things to be seized." There is a substantial reproduction of the above provision in

Article IV, Section 3 of the present Constitution except that the probable cause can now be determined by a judge "or such other responsible officer as may be authorized by law."

[3] On this point respondent Santos alleged in his answer that he 'acquired the same in an auction sale conducted by the Sheriff of Manila on August 21 1961 *** Answer par 2

[4] Petition, pars. 3-12.

[5] 42 Phil. 886.

[6] 116 US 746 (1886).

[7] Boyd vs. United States decision was cited with approval in McNabb vs. United States of America, 318 US 332 (1943); Bowles vs. Glick Bros. Lumber Co., 146 F2d 566 (1945); In re Ginsburg, 147 F2d 749 (1945); Bell vs. Hood, 150 F2d 96 (1945).

[8] "L-27360 February 28 1968 22 SCR 80

[9] Ibid, 871-872.

[10] Republic Act 1937 (1957). It reads thus: "Exercise of Power of Seizure and Arrest.— It shall be within the power of a customs official or person authorized as aforesaid, and it shall be his duty, to make seizure of any vessel, aircraft, cargo, articles, animal or other movable property when the same is subject to forfeiture or liable for any fine imposed under customs and tariff laws, such power to be exercised in conformity with the law and the provisions of this Code."

[11] Cf. People vs. Mapa, L-22301, Aug. 30, 1967, 20 SCRA 1164; Pacific Oxygen & Acetylene Co. vs. Central Bank, L-21881, March 1, 1968, 22 SCRA 917; Dequito vs. Lopez, L-27757, March 28, 1968, 22 SCRA 1352; Padilla vs. City of Pasay, L-24039, June 29, 1968, 23 SCRA 1349; Garcia vs. Vasquez, L-26808, March 28, 1969, 27 SCRA 505; La Perla Cigar and Cigarette Factory vs. Capapas, L-27948 and 28001-11, July 31, 1969, 28 SCRA 1085; Mobil Oil Phil., Inc. vs. Diocares, L-26371, Sept. 30, 1969, 29 SCRA 656; Luzon Surety Co., Inc. vs. De Garcia, L-25659, Oct. 31, 1969, 30 SCRA 111; Vda. de Macabenta vs. Davao Stevedore Terminal Co., L-27489, April 30, 1970, 32 SCRA 553; Republic Flour Mills, Inc. vs. Commissioner of Customs, L-28463, May 31, 1971, 39 SCRA 269; Maritime Co. of the Phil. vs. Reparations Commission, L-29203, July 26, 1971, 40 SCRA 70; Allied Brokerage Corp. vs. Commissioner of Customs, L-27641, Aug. 31, 1971, 40 SCRA 555; Gonzaga vs. Court of Appeals, L-27455, June 28, 1973, 51 SCRA 381; Vallangca vs. Ariola, L-29226, Sept. 28, 1973; Jalandoni vs. Endaya, L-23894, Jan. 24, 1914.

[12] In re Ginsburg, 147 F2d 749 (1945).

[13] Ibid, 750.

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