

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF FIRST INSTANCE OF MANILA (BR. XXII), AND MAYER STEEL PIPE CORPORATION, RESPONDENTS.

G.R. No. L-43747. September 02, 1992

Ponente: NOCON, J.

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NOCON, J.:

The stress in this petition is on jurisdictional issue. It seeks to nullify and set aside the orders of respondent Court of First Instance of Manila, Branch XXII, in Civil Case No. 99524, entitled "Mayer Steel Pipe Corporation v. Acting Collector of Customs, Port of Manila." These orders are as follows:

(a) Order dated November 13, 1975 which denied the Motion to Dismiss the petition and authorizing the issuance of a writ of preliminary injunction, without bond, and the benefit of a prior hearing, the dispositive portion of which reads:

"WHEREFORE:

"1. The motion to dismiss filed by respondent under date of October 17, 1975 and filed with the Court on October 20, 1975 is hereby denied;

"2. Let a writ of preliminary injunction issue, without bond, commanding the respondent or any person acting in his stead or behalf or under his direction or authority or under the direction of any person acting in his stead or behalf from enforcing the order dated August 19, 1975, issued in Seizure Identification No. 14665 until otherwise ordered by this Court or any other competent authority; and

"3. The respondent is directed to answer the main petition within ten (10) days from notice hereof."[1]

(b) Order dated April 27, 1976, denying the Motion for Reconsideration to the aforecited Order of November 13, 1975 of the same court.

The facts of this case relates back to Seizure Identification No. 14665, entitled "Republic of the Philippines v. Eleven (11) Packages of Machinery Parts for Steel Pipe Manufacturing, Mayer Steel Pipe Corporation, Claimant." A shipment of one standard basic spiral pipe mill, contained in eleven (11) packages arrived at the Port of Manila on March 23, 1975 on board "Puerto Princessa," under Reg. No. 580. The articles were declared as machinery for steel pipe manufacture, including decoiler forming cut-off equipment under Import Entry No. 26946, series of 1975, with a home consumption value of ₱76,600.00 under Tar. Heading No. 84.45 at 10% ad valorem, by Mayer Steel Pipe Corporation, consignee of the shipment.

The import papers were duly processed and upon payment of ₱267,028.00 the shipment was released to Mayer Steel Pipe Corporation on April 3, 1975. However, upon representation of the Anti-Smuggling Action Center (ASAC) to the effect that the shipment was grossly misdeclared, misclassified and undervalued, the Collector of Customs issued a warrant of seizure and detention against the subject machinery. The shipment was seized and

the corresponding return made to the Collector of Customs, who docketed the same as S.I. No. 14665.

In the course of the proceeding of S.I. No. 14665 respondent corporation repeatedly requested with petitioner Collector of Customs to allow the installation of the machineries at its factory premises to put it "in operation" under Customs guard. And should the machineries be forfeited and the Collector of Customs order their removal, respondent was willing to pay for all the expenses incident thereto.[2] Because of these representations, the Collector of Customs issued an order dated July 31, 1975 allowing the provisional release of the machineries, and not a complete and permanent relinquishment of the shipment as contemplated in Section 2301 of the Tariff and Custom's Code,[3] pending the seizure proceeding, on the condition that:

"1. (The machineries will be under) continuous guarding by designated Customs Guards until otherwise directed by this office; and

"2. Filing of a surety bond in an amount equivalent to one and one-half times the appraised value of the subject importation, conditioned either for the dismantling of the machinery at the claimant's expense and delivery thereof to this Bureau, for the payment of the appraised value thereof and/or any fine, expenses and costs which may be adjudged in the case, in the event that the shipment is finally declared forfeited in favor of the Government.[4]

Upon filing by the ASAC of a Motion for Reconsideration of the above order, the Collector of Customs, on August 19, 1975, issued another order clarifying the nature and extent of the previous order of release dated July 31, 1975, and We quote:

"It is apparent that the ASAC is questioning the said Order of this Office because of the possibility that it might be interpreted as allowing the claimant (Mayer Steel) to use or operate the machines for making pipes. It should be stressed, however, that this Office allowed the provisional release of the machines merely for purposes of installation in view of the representations of the claimant's lawyer that 'the metallurgical engineer authorized by the supplier Byard Kenwest Ltd. of England to supervise the installation of the machineries has been here for quite sometime, and the company (Mayer Steel) is shouldering all expenses for his prolonged stay here' and that 'the Central Bank also requires the claimant company to install the machineries so as to make it function and thus enable its designated Engineer Consultants to evaluate the same for purposes of the approved deferred payment scheme.' Clearly, the Order of July 31, 1975, was not intended to allow the claimant to operate the subject machines pending this seizure proceeding, since this Office was aware of the issue raised by the ASAC concerning the 'prohibited' character of this importation and of the fact that it would be wrong to allow the claimant to profit or benefit from the use of the machines if it had no right to import them in the first place. As plainly spelled out in the bond filed by the claimant and approved by this Office, Mayer Steel Corporation 'was authorized to secure the provisional release of said shipment in order that the same may be installed and test run for evaluation by Engineers of Byard Kenwest Ltd. of England, suppliers of the said machinery.'"[5]

After trial and hearing the Collector of Customs rendered a decision dated September 25, 1975 directing the forfeiture of the machinery for having been imported in violation of the implementing rules and regulations on overcrowded industries concomittant with the power vested to the Collector of Customs under Section 2312 of the Tariff and Customs Code.[6]

On September 29, 1975, respondent corporation filed a petition with the respondent court, docketed as Civil Case No. 99524, entitled "Mayer Steel Pipe Corporation v. Alfredo Francisco, etc." asking for the annulment of herein petitioner's order dated August 19, 1975 and September 8, 1975, and an order restraining petitioner from enforcing them.

It is the contention of respondent company that the questioned orders dated August 19 and September 8, 1975 of

petitioner were unjust and rendered with grave abuse of discretion. This was premised on respondent's allegation that it was not given notice of the Motion for Reconsideration of ASAC of petitioner's order dated July 31, 1975.

The respondent court in its order dated November 13, 1975, in denying the Motion to Dismiss of herein petitioner, observed that after the civil case was filed, petitioner, on September 25, 1975 rendered a decision forfeiting the subject machineries, when in fact on September 22, 1975, on motion of counsel for herein respondent, the case was postponed supposedly for October 7, 1975.[7]

Thus, the trial court said:

"It should be obvious, however, that the decision what (sic) would remove the case from the jurisdiction of this court cannot refer to any kind of decision. The decision rendered by the respondent with which he would now want to defeat the jurisdiction of the Court was rendered before the termination of the hearing it is supposed to decide, its existence as of the date it was supposed to have been rendered was not shown in the logbookin (sic) the office of the respondent, and was released only to the petitioner several days after this petition was filed and after respondent has received the order of the Court to answer. . . Certainly, this Court would not want its jurisdiction to be defeated by a decision rendered under circumstances open to suspicion that would even subject its very existence suspect." [8]

The petitioner in the present petition, thus, raises the following issues:

I

The respondent court erred in arbitrarily taking cognizance of the petition in Civil Case No. 99524 entitled "Mayer Steel Pipe Corporation, petitioner vs. Alfredo Francisco, in his capacity as Acting Collector of Customs for the Port of Manila, respondent," despite the fact that jurisdiction belongs to another forum.

II

Granting, without admitting, that the respondent court acquired jurisdiction over the petition in Civil Case No. 99524, the decision in S.I. No. 14665 on September 25, 1975, rendered Civil Case No. 99524 moot and academic;

III

The respondent court erred in declaring that the respondent corporation was deprived of the right to due process with the promulgation of August 19, 1975 order of the petitioner Collector of Customs in S.I. No. 14665, when the same order was issued for the mere clarification of the petitioner's July 31, 1975 order which came into being at the behest of the respondent corporation.

IV

The respondent court erred in issuing a writ of preliminary injunction against the petitioner Collector of Customs, his agents and counsel, without first conducting a hearing thereon.

V

Granting, arguendo, that the hearing conducted by the respondent court in Civil Case No. 99524 on October 10 and 24, 1975 pertained also to the prayer in the petition for the issuance of a writ of preliminary injunction, the respondent court erred in issuing the writ of preliminary injunction in the absence of: (a) a clear legal right on the part of the respondent corporation to the issuance thereof; and (b) an irreparable injury which the respondent corporation is to suffer by the issuance of August 19, 1975 order of the petitioner Collector of Customs.

It would not require too much of an effort to determine the applicable principles that should govern. The inescapable conclusion is that the petition possesses merit.

The mandate of the law is specific. Section 2312 of the Tariff and Customs Code provides:

"SEC. 2312. Decision or Action by Collector in Protest And Seizure Cases. - When a protest in proper form is presented in a case where protest is required, the Collector shall issue an order for hearing within fifteen (15) days from receipt of the protest and hear the matter thus presented. Upon the termination of the hearing, the Collector shall render a decision within thirty (30) days, and if the protest is sustained, in whole or in part, he shall make the appropriate order, the entry reliquidated if necessary."

On the other hand, Section 2313 of the same law states:

"SEC 2313. Review by Commissioner. - The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen (15) days after notification in writing by the Collector of his action or decision, give written notice to the Collector and one copy furnished to the Commissioner of his desire to have the matter reviewed by the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision." (underscoring supplied)

While Section 7 of R.A. 1125 declares, thus:

"Jurisdiction - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -

x x x

"(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of the law administered by the Bureau of Customs."

Clearly then, the question of seizure and forfeiture is for the Collector of Customs to determine in the first instance and then the Commissioner of Customs. This is a field where the doctrine of primary jurisdiction controls. Thereafter an appeal may be taken to the Court of Tax Appeals. A court of first instance is thus devoid of competence to act on the matter.

A long line of cases, which goes as far back as 1913[9] have adopted the doctrine that the Collector of Customs when sitting in forfeiture proceedings, constitutes a tribunal upon which the law confers jurisdiction to hear and determine all questions touching the forfeiture and further disposition of the subject matter.[10]

In the more recent case of *Enrile v. Vinuya*,[11] this Court held that "the prevailing doctrine is that the exclusive jurisdiction in seizure and forfeiture cases vested in the Collector of Customs precludes a court of first instance from assuming cognizance over such a matter." It went on to quote Justice Zaldivar in *Papa v. Mago*[12] who enunciated that "it is the settled rule, therefore, that the Bureau of Customs acquires exclusive jurisdiction over imported goods, for the purposes of enforcement of the customs laws, from the moment the goods are actually in its possession or control, even if no warrant of seizure or detention had previously been issued by the Collector of Customs in connection with seizure and forfeiture proceedings."

Neither do We find merit to the allegation that petitioner ignored the due process aspect in the seizure proceedings which appeared to have bothered the respondent court. A hearing was conducted and no less than six (6) witnesses were presented by the respondent company before a decision dated September 25, 1975 was rendered.

The fact that respondent company was not given a copy of the motion for reconsideration of the July 31, 1975 order of petitioner filed by ASAC, or even if a decision was supposedly promulgated prior to the termination of the hearing, would not suffice to vest on the regular court jurisdiction over the case. The remedy of the respondent company is to go to the Commissioner of Customs who supervises all the proceedings before the Collector.[13]

Even assuming arguendo that the civil court acquired jurisdiction, we are inclined to agree with petitioner that the decision of September 25, 1975, has rendered the civil case moot and academic, and that the judge should have dismissed the petition before him.

At this juncture it is inconsequential to discuss the other errors raised by the petitioner. Since the respondent court did not acquire jurisdiction over the petition of the respondent company it follows that the court has no authority to issue an injunction against the petitioner.

WHEREFORE, finding the petition meritorious, the orders of the respondent court dated November 13, 1975 and April 27, 1976 are hereby annulled and set aside, thereby permanently and perpetually enjoining the court a quo from further proceeding in the case. The respondent corporation is hereby ordered to turn over to the government, through the Collector of Customs, all proceeds which may now or hereafter be realized, from the sale of spiral pipes produced and manufactured through the operation of subject machinery. It is further ordered that the machinery be, as it is hereby ordered forfeited in favor of the Government to be disposed of in the manner provided for by law. Cost for removing, dismantling and crating the machineries in its former casing shall be at the expense of Mayer Steel Pipe Corporation. Costs against respondent.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Melo, J., no part.

[1] Rollo, p. 82.

[2] Rollo, p. 39.

[3] Annex G, p.3; Rollo, p. 182.

[4] Rollo, p. 38

[5] Rollo, p. 41.

[6] Rollo, p. 43.

[7] Annex A, p. 7; Rollo, p. 74.

[8] Annex A, pp. 10-11.

[9] Government vs. Gale, 24 Phil. 95.

[10] Commissioner of Customs v. Cloribel, L-20266, 19 SCRA 234 (1967); Auyong Hian v. Court of Appeals, L--25181, 19 SCRA 10 (1967) and L-28782, 59 SCRA 110 (1974).

[11] L-29043, 37 SCRA 381 (1971).

[12] L-27360, 22 SCRA 857 (1968).

[13] Section 2313, Tariff and Customs Code.

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