

## COMMISSIONER OF CUSTOMS, PETITIONER, VS. HONORABLE JUDGE DEMETRIO ENCARNACION OF THE COURT OF FIRST INSTANCE OF RIZAL AND RODOLFO SADIA, RESPONDENTS.

*G.R. No. L-7598. July 26, 1954*

Ponente: BAUTISTA ANGELO, J.

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### BAUTISTA ANGELO, J.:

This is a petition for prohibition and certiorari with preliminary injunction.

Petitioner seeks to set aside a portion of the decision of respondent Judge which orders the return of certain dutiable goods to an accused in a criminal case despite the fact that they had been legally forfeited to the Republic of the Philippines.

On September 7, 1951, one Rodolfo Sadia, a crew member of the Philippine Air Lines, arrived from Madrid on a PAL plane bringing with him certain dutiable articles. These articles were not declared in the baggage declaration and were brought without the corresponding import license. Accordingly, they were seized by the customs authorities.

After due hearing, of which Sadia and other necessary parties were duly notified, the Collector of Customs, in a decision rendered on April 14, 1952, decreed that said articles be forfeited to the Government as required by law. Said decision was approved on May 3, 1952 by the Commissioner of Customs, and as Sadia did not appeal therefrom, nor ask for a reconsideration thereof, the order of forfeiture became final.

On October 17, 1952, Rodolfo Sadia was charged before the Court of First Instance of Rizal with a violation of section 2703 of the Revised Administrative Code for his failure to declare the dutiable articles above referred to in his baggage declaration (Criminal Case No. 3794), and, after trial, the court, then presided over by respondent Judge, in a decision rendered on June 29, 1953, acquitted the accused on the ground of insufficiency of evidence, ordering at the same time the Bureau of Customs to return to him said articles upon prior payment of the customs duties due thereon.

On July 20, 1953, the Government filed a motion for reconsideration of that portion of the decision which orders the Bureau of Customs to release the dutiable articles to the accused on the ground that the order is illegal because it modifies a final order of forfeiture of the Collector of Customs who has exclusive and original jurisdiction to act on the matter under the law, and this motion having been denied, the Commissioner of Customs instituted the present proceedings.

In his answer, respondent Rodolfo Sadia tries to justify the disposition made of the articles by respondent Judge contending that the Commissioner of Customs had no jurisdiction to order their seizure and that all the proceedings conducted by him on the matter are null and void.

This claim cannot now be invoked by respondent, nor can he dispute the validity of the seizure decree, it appearing that he failed to appeal from the decision of the Collector of Customs as approved by the Commissioner

for Customs, as required by law. It appears that, following the seizure of the dutiable articles, a hearing was held after giving due notice to respondent Sadia and other necessary parties, and after the hearing the Collector of Customs, in a decision rendered on April 14, 1952, decreed the forfeiture of the articles in favor of the Government. From this decision Sadia did not appeal. He cannot therefore dispute now the validity of said decision which had long become final. (Section 1383, Revised Administrative Code.)

The question now to be determined is whether the respondent Judge has acted properly in ordering the return of the dutiable articles to Rodolfo Sadia in view of his acquittal in the criminal case on the ground of insufficiency of evidence to prove criminal intent to defraud the Government.

Under the law, "Every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instruments or tools with which it was committed. Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be the property of a third person not liable for the offense \* \* \*." (Article 45, Revised Penal Code). As a corollary, it may be said that the court has the power to determine to whom the said instruments or tools should be adjudicated in case of acquittal. And so it has been held that the court having jurisdiction of the offense has also the jurisdiction to determine the disposition of such proceeds, instruments or tools, and it is its duty to dispose of same upon the application of any person interested (U. S. vs. Bruhez, 28 Phil., 305). But in order that the court may exercise this jurisdiction it is necessary that such instruments or tools be submitted in evidence or be placed at the disposal of the court in such manner that it can be said that they are within its jurisdiction. Otherwise, the court is bereft of power to pass upon the disposition of said instruments or tools. (U. S. vs. Filart and Singson, 30 Phil., 80.)

Several reasons may be advanced why the respondent Judge erred in ordering the release of the dutiable articles in question to Rodolfo Sadia even if he is acquitted on the ground of insufficiency of evidence. One of them is the fact that said articles have ceased to belong to Sadia. It is undisputed that they had been forfeited to the Government by the Commissioner of Customs by virtue of the power conferred upon him by law after Sadia and other necessary parties had been duly heard. (Sections 1379-1380, Revised Administrative Code.) This order became final in view of the failure of Sadia to appeal as required by law. He cannot therefore now dispute that said articles had passed to the control of the Government. Much less can the court decree that said articles be delivered to him.

Another reason is the fact that the controversial articles had never been submitted in evidence nor placed at the disposal of the court in the criminal case instituted against Sadia. This fact appears in the very decision of the court and is a matter that has contributed to creating the doubt which resulted in the acquittal of the accused. Said articles, not having been submitted in evidence, were not within the jurisdiction of the court and as such could not have been subject to its disposition. It is therefore evident that, in ordering their return to Sadia, the court acted in excess of its jurisdiction, or at least with grave abuse of discretion.

Petition is granted, with costs against respondent Rodolfo Sadia. The objectionable portion is ordered deleted from the decision rendered in Criminal Case No. 3794.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion and Reyes, J. B. L., JJ., concur.

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