

## THE COMMISSIONER OF CUSTOMS AND THE COLLECTOR OF CUSTOMS FOR THE PORT OF MANILA, PETITIONERS, VS. HON. FEDERICO C. ALIKPALA, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTA...

*G.R. No. L-32542. November 26, 1970*

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c937ca928c42/>

---

### MAKALINTAL, J.:

The Commissioner of Customs and the Collector of Customs for the port of Manila have come to this Court on a petition for certiorari and prohibition with preliminary injunction to declare null and void and set aside certain orders of respondent Court of First Instance of Manila, Judge Federico C. Alikpala presiding, in Civil Case No. 80655 entitled "Gonzalo Sy, doing business under the name and style of Gonzalo Sy Trading, and Tomas Y. de Leon, doing business under the name and style of T.Y. de Leon Enterprises, petitioners, vs. The Commissioner of Customs and the Collector of Customs, respondents." That case was a petition for injunction with a prayer for a writ of preliminary injunction.

The basic order complained of is that issued on August 26, 1970, which recites the essential pertinent facts of the case and is reproduced as follows:

"On August 11, 1970, the petitioners filed an action wherein it was prayed that the Commissioner of Customs and the Collector of Customs be restrained from carrying out the seizure and scheduled auction sale of the fruits they imported from abroad and that the said cargo be released to them under the surety bonds which they have already submitted to respondent Collector of Customs.

On August 13, 1970, the Court issued an order setting the hearing of the petition for the issuance of a writ of preliminary injunction on August 19, 1970, and restraining the respondents, their agents, representatives and attorneys in the meantime from carrying out the scheduled auction sale of the fruits imported by the petitioners, until further orders from the Court.

The respondents filed a motion to dissolve the restraining order and an opposition to the issuance of a writ of preliminary injunction invoking several grounds in support thereof.

It appears that the Collector of Customs of the port of Manila issued several warrants of seizure and detention against the cargo of the petitioners consisting of apples, lemons, oranges and grapes, on the ground that they were imported in violation of Central Bank circulars in relation to Section 2530-F of the Tariff and Customs Code. In due time, the petitioners were notified of the seizure, but before they could be heard, respondent Collector of Customs issued a notice of sale of the imported fruits which was scheduled for sale on August 10, 1970.

The petitioners filed with the Court of Tax Appeals a petition seeking a review of the action taken by the Collector of Customs of Manila who ordered the seizure of the imported fresh fruits, with a prayer that pending final determination of the case, a writ of preliminary injunction be issued restraining the Commissioner of

Customs and Collector of Customs from carrying out the seizure. On August 12, 1970, said Court, however, denied the petition on the ground that it had no jurisdiction over the subject matter thereof and to grant the writ of preliminary injunction.

Counsel for the respondents admitted that the petitioners have not been heard on the seizure proceedings and the imported cargo have already been advertised for sale and the same would have been sold had not this Court issued a restraining order. The first question submitted for resolution is whether the Court has jurisdiction over the subject matter of the petition and to issue the ancillary remedy prayed for.

The question involved herein is not whether the imported fruits are subject to seizure but whether the respondent Collector of Customs of Manila acted in accordance with law in scheduling the sale thereof without first giving the petitioners an opportunity to be heard. In short, the question presented for resolution is whether there was observance of due process and in the case of *Nadeco vs. Collector of Customs* (G.R. No. L-19180, Oct. 31, 1963) the Supreme Court in effect held that the Court of First Instance has jurisdiction over the subject matter of the action.

The provision of Tariff and Customs Code relied upon by the respondents in issuing the warrants of seizure is Section 2530-F (which declares that articles of prohibited importation are subject to forfeiture) in relation to circulars issued by the Central Bank of the Philippines beginning March 10, 1970 prohibiting the issuance of release certificates on no-dollar imports.

Section 2301 of the Tariff and Customs Code, however, provides that upon making any seizure, the Collector shall issue a warrant for the detention of the property, but if the owner or importer desires to secure the release of the property for legitimate use, said official may surrender it upon the filing of a sufficient bond, in an amount to be fixed by him, conditioned for the payment of the appraised value of the articles and/or any fine, expenses and costs which may be adjudged in the case.

The Tariff and Customs Code further requires the Collector to give the owner or importer of the property written notice of the seizure and an opportunity to be heard in relation thereto (Section 2303) and that properties under seizure shall not be sold except after liability to sale shall have been established by proper administrative or judicial proceedings in conformity with the provisions of said Code.

Evidently, the respondent Collector of Customs should not have ordered the sale at public auction of the imported fruits until after the petitioners have been given an opportunity to be heard. Moreover, they availed of the remedy granted them by Section 2301, which respondent Collector of Customs granted but required the submission of a cash instead of a surety bond.

The statute under consideration (Section 2301, Tariff and Customs Code) merely provided that the release would be upon the filing of a sufficient "bond." The petitioners affirmed that they presented to respondent Collector of Customs surety bonds conditioned for the payment of the appraised value of the imported fruits and/or any fine, expenses and costs which may be adjudged in the case. The attention of the petitioners have not been called by the respondent Collector of Customs to the "insufficiency" of the bonds nor did he raise any question as to the solvency of the bonding company.

On the basis of the foregoing facts, the Court finds that the petitioners are entitled to the relief prayed for. The imported goods are perishable in nature and unless immediate relief is granted to petitioners, irreparable damage may be caused to them and in the event petitioners' contention would be upheld, the judgment that may be subsequently rendered would become ineffectual.

WHEREFORE, upon filing of a bond in the sum of P500, subject to the approval of the Court, let a writ of preliminary injunction be issued enjoining the respondents, their agents, representatives and any other person acting in their behalf, from proceeding with the seizure and sale at public auction of the imported fruits, until further orders from this Court. The respondents are further directed to release immediately the imported goods

to the custody of the petitioners on the strength of the surety bonds filed by them unless the respondents file with this Court their objection to the sufficiency of said bonds, which should be done within twenty-four (24) hours from notice of a copy of this order.

SO ORDERED."

On September 23, 1970 this Court gave due course to the present petition and resolved to issue a restraining order "enjoining respondent Judge from executing his order dated August 26, 1970. . . insofar as it directed the petitioners herein from releasing to the custody of the respondents the imported goods in question." In due time the respondents filed their answer to the petition and subsequently both parties submitted their respective memoranda in lieu of oral argument.

Three grounds are relied upon in the petition for the issuance of the writ prayed for, namely:

"1. Respondent Court has no jurisdiction over the subject matter of the case; it follows that it does not have the authority to grant the writ of preliminary injunction ordering the release of the imported fruits in question.

"2. Assuming, *ad arguendo*, that it has jurisdiction over the subject matter of the case, respondent Court acted with grave abuse of discretion amounting to lack of jurisdiction in granting the writ of preliminary injunction despite the fact that the respondents' complaint states no cause of action upon which the grant of injunction may be predicated.

"3. Respondent Court gravely abused its discretion amounting to lack of jurisdiction in insisting on the sufficiency of the bonds filed by petitioners, undertaken by the Communications Insurance Co., Inc. in the total amount of P513,865.46, (P513,866.06), despite the fact that its writing capacity is P50,465.52 only."

For a proper understanding and resolution of the issues it is necessary to state the facts in greater detail, as they appear from the pleadings and memoranda submitted by the parties as well as from the different documents attached thereto and marked as annexes.

We first take up the case of Gonzalo Sy Trading. On November 19, 1968 this firm was authorized by the Central Bank, under Monetary Board Resolution No. 2038, to import fresh fruits from Japan to the extent of \$350,000.00, on a no-dollar basis and without letters of credit. As of November 1969 the amount of \$144,306.15 had been used. On October 30 of that year Gonzalo Sy Trading asked the Central Bank for an amendment of the terms of the aforesaid resolution so that the importations authorized under it could be procured not only from Japan but from other sources as well. On November 19, 1969 the Deputy Governor of the Central Bank denied the request, and pointed out that Monetary Board Resolution No. 2038 was intended only for the Christmas season of 1968 and did not extend through 1969. Two days thereafter, however, or on November 21, the Director of the Foreign Exchange Department of the Central Bank wrote the Prudential Bank and Trust Company in connection with the release certificates so far issued by it covering the no-dollar importations of fresh fruits by its client, Gonzalo Sy Trading, and noting that only \$ 144,306.15 had been used out of the total amount of \$350,000.00, authorized the Prudential Bank and Trust Company to "continue to issue release certificates to cover the No-Dollar importations of fresh fruits by your client, subject to the same terms and conditions imposed by the Monetary Board under the above-mentioned resolution." Pursuant to such authority Gonzalo Sy Trading continued importing fresh fruits, until by the beginning of June 1970 the total amount already used was \$314,142.51, leaving a balance of \$35,857.49.

On June 3, 1970, Gonzalo Sy Trading wrote a letter to the Central Bank, making reference to a previous letter of May 27 requesting permission to utilize the said balance to pay for two shipments of fresh fruits coming on June 4 and 6, respectively. This request was denied by the Central Bank in its letter of June 10, 1970. On the following June 16 warrants of seizure and detention were issued by the Collector of Customs after the customs duties, taxes

and other charges had been paid by the importer.

With respect to respondent Tomas T. de Leon, it appears that on many occasions in the past he had always been allowed by the Central Bank to import fresh fruits on a no-dollar consignment basis. The 1968 imports alone were valued at over half a million dollars. The corresponding release certificates were invariably authorized by said bank after the arrival of the shipments in the Philippines. On November 20, 1969 de Leon filed the customary application with the bank for the issuance of a "no-dollar import permit" to cover consignments of fruits from suppliers abroad. Pending action on said application, orders were placed and the shipments arrived during the months of May through July 1970, and the customs duties, taxes and other charges were also paid by the importer. As in the case of Gonzalo Sy Trading however, the said shipments were seized by the Collector of Customs.

On July 30, 1970 the Collector of Customs issued a notice of auction sale of the goods under seizure to be held on the following August 12 and every day thereafter until terminated. On July 31 counsel for both importers wrote a letter to the Collector requesting that they be allowed to file sufficient bonds for the release of the goods, without prejudice to their right to contest the validity of seizure. On the same date the Collector granted the request by means of a handwritten marginal notation on the letter itself, provided "duty and taxes have already been paid." This condition had been previously met, and so the corresponding surety bonds were filed, in the aggregate amount of P513,865.46. Their approval was requested in another letter dated August 10, 1970, but the Collector of Customs thereupon- required a cash bond instead, as indicated in a similar marginal notation on this second letter.

On the same date — August 10 — the two importers filed a petition with the Court of Tax Appeals to stop the sale at public auction of the fruit shipments in question, with a prayer for preliminary injunction until the final determination of the validity of the seizure proceedings. The said Court, however, by resolution dated August 12, 1970, dismissed the petition on the ground of lack of jurisdiction, stating that neither the Collector of Customs nor the Commissioner of Customs had yet rendered any decision from which an appeal could be taken pursuant to Section 7 of Republic Act No. 1125. Evidently anticipating such a ruling and considering the urgency of the matter, the importers went to the Court of First Instance on a petition for injunction, wherein the resolution reproduced in the beginning of this decision was thereafter promulgated after hearing.

That there must be some forum to which a party may apply for relief from an alleged violation or denial of his rights is a legal principle from which there can be no dissent. Otherwise the rule of law would be defeated. The choice in this case was between the Court of Tax Appeals and the Court of First Instance. Recourse to the former was sought and denied. The Tax Court held that it could not issue the preliminary injunction prayed for except in the exercise of its appellate jurisdiction, and no appeal had been taken since no appealable decision had been rendered.

The ruling appears to find support in the decisions of this Court, thus:

"x x x Nowhere does the law expressly vest in the Court of Tax Appeals original jurisdiction to issue writs of prohibition or injunction independently of, and apart from, an appealed case. The writ of prohibition or injunction that it may issue under the provisions of Section 11, Republic Act No. 1125, to suspend the collection of taxes, is merely ancillary to and in furtherance of its appellate jurisdiction in the cases mentioned in Section 7 of the Act. The power to issue the writ exists only in cases appealed to it. This is reflected in the explanatory note of the bill (House No. 175), creating the Court of Tax Appeals." (Coll. of Int. Rev. v. Yuseco, G.R. No. L-12518, Oct. 28, 1961)

Respondent Court of First Instance assumed jurisdiction over the petition before it on the ground that "the question presented for resolution (was) whether there was absence of due process," citing our decision in Nadeco

vs. Collector of Customs, G.R. No. L-19180, Oct. 31, 1963. The said Court found: "Counsel for the respondents admitted that the petitioners have not been heard on the seizure proceedings and the imported cargo have already been advertised for sale and some would have been sold had not this Court issued a restraining order." Due notice and hearing, besides being an inherent element of due process, is provided for in Section 2303 of the Tariff and Customs Code, which requires the Collector to give the owner or importer of the property written notice of the seizure and an opportunity to be heard in relation to the delinquency which was the occasion for such seizure, as well as in Section 2601, which directs that seized property, other than contraband, shall be subject to sale after liability to sale shall have been established by proper administrative or judicial proceedings in conformity with the provisions of said Code.

In view of the foregoing, we hold that respondent Court of First Instance had jurisdiction to take cognizance of the petition for injunction before it. The remedy prayed for was one in equity, which the petitioner below tried to seek in the Court of Tax Appeals, but was denied on the ground that no appealable decision had yet been rendered by the Collector and the Commissioner of Customs. The jurisdiction of respondent Court was not invoked to determine the validity of the seizure proceedings, which are pending before the Collector of Customs and regarding which an appeal could be eventually taken only to the Tax Court, but rather to stop the projected auction sale of the goods in question and secure the release thereof under surety bond, without prejudice to the main issue concerning the validity of the seizure. Such relief is interlocutory in nature, and is sanctioned by Section 2301 of the Tariff and Customs Code, which provides that "upon making any seizure the Collector shall issue a warrant for the detention of the property; but if the owner or importer desires to secure the release of the property for legitimate use, the Collector may surrender it upon the filing of a sufficient bond, in an amount to be fixed by him, conditioned for payment of the appraised value of the article and/or any fine, expenses and costs which may be adjudged in the case."

The really basic issue before us is whether or not respondent Court gravely abused its discretion in issuing the orders complained of, particularly that dated August 26, 1970. For the resolution of this issue we need not pass squarely upon the question of whether the importations in question are prohibited by law within the meaning of the proviso in Section 2301 of the Tariff and Customs Code which says that such prohibited importations may not be released under bond.. That question is involved and should properly be decided in the seizure proceedings. For purposes of the equitable remedy of injunction granted by respondent Court, however, as well as of the petition for certiorari and prohibition before us, it is sufficient to note, first, that there is no clear showing that the importations subject of seizure are prohibited by law; and second, that the Collector of Customs has in fact agreed in the beginning to release the importations provided surety bonds were filed, although he subsequently required a cash bond instead.

The warrants of seizure were issued in view of Central Bank Circulars Nos. 294 and 295, promulgated on March 10 and 20, 1970, respectively, which provide that "no-dollar imports not covered by Circular No. 247 shall not be issued any release certificates and shall be referred to the Central Bank for official Transmittal to the Bureau of Customs for appropriate seizure proceedings."

Evidently, in the opinion of the Collector of Customs himself, even in the light of those circulars there exists no legal impediment to the release of the subject importations under bond, otherwise he would not have agreed thereto, although he changed his requirement from surety bond to cash. In any case, as pointed out by private respondents, the said importations had been ordered before Central Bank Circulars 294 and 295 were promulgated, and since the orders were made in accordance with previous practice there could be no bad faith or intent to violate those circulars.

The options presented in this case are few and clear-cut: (1) to sell the imported fresh fruits at public auction, as

the petitioners now insist; (2) to release them to the private respondents upon the filing of sufficient surety bonds, as respondent Court has directed; and (3) to require the private respondents to file a cash bond instead.

We fail to see what good it would do either the Government or the private respondents to have the fruits sold at public auction. The Government's interest, ultimately, is in the proceeds which may be realized from such sale, in the event the fruits are declared forfeited in the seizure proceedings. By now a considerable portion thereof must have deteriorated, and the rest will in all probability not command the same prices as before. Besides, as pointed out by the respondents — and this has not been denied — the Commissioner of Customs has been quoted by a newspaper on September 29, 1970, to the effect that "seized items worth hundreds of thousands of pesos could not be disposed of because of the unrealistic bids received by the Bureau of Customs when the goods were offered for sale at public auction . . . Some of the offers were not even enough to pay the import taxes and customs duties due on the articles." To sell the goods at public auction, therefore, cannot but entail great loss either to the Government or to the importers.

On the other hand the filing of sufficient bond would serve the purpose envisaged, that is, protect the interest of the Government in the value of the imported goods should they be finally declared forfeited, while at the same time avoiding needless damage or prejudice to the importers should the forfeiture fail. The release on bond, it may be repeated, is expressly authorized by Section 2301 of the Tariff and Customs Code.

But the petitioners would have the private respondents put up cash, alleging that it may be difficult to realize upon a surety bond if it is allowed. We do not believe this reason is justified. In the first place, a bond, when required by law, is commonly understood to mean an undertaking that is sufficiently secured, and not cash or currency. According to the respondents this is the established practice in the Bureau of Customs, and this statement has not been denied. Of course whatever surety bonds are submitted by the importers are subject to any objections by the Collector of Customs as to their sufficiency or as to the solvency of the bondsman. In the second place, to require the private respondents here to put up cash in the sum of P513,865.46 is prohibitive and unrealistic, and amounts to an arbitrary exercise of discretion under the circumstances of this case, assuming that the matter is discretionary.

We note, however, that the bonds offered by the respondents are all subscribed by the same bonding company, namely, the Communications Insurance Co., Inc., which has a net worth of only P504,655.15 and a maximum writing capacity of P50,465.52, on the basis of its financial statement as of December 31, 1969, according to a letter of the Acting Insurance Commissioner dated August 28, 1970. The figure given by the petitioners in their objection to the sufficiency of the bonds before respondent court is P596,342.51 in reference to the net worth of the said company. In any case the petitioners have expressed doubts as to whether the bondsman can satisfy a liability of P513,865.46, which is the aggregate amount of the bonds submitted. The objection on this ground has been brushed aside by the lower court in its order of September 8, 1970, since the private respondents "have shown that the bonding company obtained reinsurance on part of their liability for those bonds." But it appears, as manifested by said respondents themselves, that only two of the bonds submitted by them, in the respective amounts of P94,647.80 and P78,981.24, are covered by reinsurance, leaving more than P340,000 not reinsured. In view thereof, it is incumbent upon the respondents to either cause a sufficient portion of the other bonds submitted by it to be covered by reinsurance or to put up other surety bonds acceptable to the Collector of Customs, the same to be justified before respondent Court in case of dispute.

Wherefore, subject to the condition stated in the preceding paragraph, the writ prayed for is denied, the petition dismissed, and the restraining order issued by this Court hereby lifted. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo and Villamor, JJ., concur.

Dizon and Makasiar, JJ., are on official leave.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.