

COMMISSIONER OF CUSTOMS, PETITIONER, VS. LT. COL. LEOPOLDO RELUNIA, RESPONDENT.

G.R. No. L-11860. May 29, 1959

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal by the Commissioner of Customs from the decision of the Court of Tax Appeals, the dispositive portion of which reads:

"FOR THE FOREGOING CONSIDERATION, we are of the opinion that the forfeiture of the electric range in question under Section 1363 (g.) is illegal. Accordingly, it is hereby ordered that the said article be released to the herein petitioner upon payment of the corresponding customs duties, taxes or charges. Without pronouncement as to costs."

On December 10, 1953, the RPS "MISAMIS ORIENTAL", a unit of the Philippine Navy was dispatched to Japan to transport contingents of the 14th BCT bound for Pusan, Korea, and carry Christmas gifts for our soldiers there. It seems that thereafter, it was used for transportation purposes in connection with the needs of our soldiers there and made trips between Korea and Japan, so that it did not return to the Philippines until September 2, 1954. While in Japan, it loaded 180 cases containing various articles subject to customs duties. These articles have been classified into three groups, to wit: "(1) those supposed to be for the Philippine Army Post Exchange, with an appraised value of \$24,197.53, (2) those pertaining to the Philippine Navy Officers Base Commissary, Cavite, with an appraised value of \$1,590.04, and (3) those belonging to individuals, consisting of nine Philippine Army and Navy, officers and crew and two private persons, with an appraised value of \$1,772.00."

The rest of the facts which are not in dispute, as well as the issues involved, particularly the legal ones, are well stated in the decision of the Court of Tax Appeals now before us on appeal. We are reproducing pertinent portions of said decision:

"* * *. All these articles were declared forfeited by the Collector of Customs of Manila for violations of the Customs Law in a decision rendered on March 18, 1955.

"One of the cases containing an electric range 'GE' with four burners, brought by the EPS 'MISAMIS ORIENTAL' is consigned to petitioner herein. The said article was forfeited pursuant to Section 1363 (g) of the Administrative Code as an unmanifested cargo. On appeal to the Commissioner of Customs, the dispositive portion of the decision of the Collector of Customs of Manila was affirmed in toto; hence this appeal.

"Section 1363 (g) of the Administrative Code, upon which the decree of forfeiture is based, reads as follows:

"Sec. 1363. Property subject to forfeiture under customs laws.— Vessels, cargo, merchandise, and other objects and things shall, under the conditions hereinbelow specified, be subject to forfeiture:

'(g) Unmanifested merchandise found on any vessel, a manifest therefor being required.'

"The only question to be decided is whether or not a manifest is required of the EPS 'MISAMIS ORIENTAL'

and, if so, whether or not the aforesaid electric range is an unmanifested merchandise within the meaning of Section 1363 (g) of the Administrative Code.

"The law provides that an 'unmanifested merchandise found on any vessel, a manifest therefor being required' is subject to forfeiture. This means that where a vessel is Inquired by law, or by regulations promulgated pursuant to law, to make and submit a manifest of its cargo to the customs authorities and it fails to do so, merchandise not manifested shall be forfeited. Is the EPS 'MISAMIS ORIENTAL' required under the Customs Law to make and submit to the customs authorities a manifest of its cargo? The Collector of Customs of Manila says it is, and he has been sustained by respondent Commissioner of Customs.

"It is argued that Sections 1221, 1225 and 1228 of the Administrative Code require masters of Government vessels to submit cargo manifests. Section 1221 provides:

'SEC. 1221. Ports open to vessels engaged in foreign trade — Duty of vessel to make entry. — Vessels engaged in the foreign carrying trade shall touch at ports of entry only, except as otherwise specially allowed; and every such vessel arriving within a customs collection district of the Philippines from a foreign port shall make entry at the port of entry for such district and shall be subject to the authority of the collector of .customs of the port while within his jurisdiction.

'The master of any war vessel or vessel employed by any foreign government shall not be required to report and enter on arrival in the Philippines, unless engaged in the transportation of merchandise in the way of trade.

"The term 'report and enter' appearing in the last paragraph of Section 1221 means, according to the Collector of Customs, 'the entrance of a vessel from a foreign port into a Philippine port of entry as contemplated in Section 1225' which reads in part:

'Sec. 1225. Documents to be produced by master upon entry of vessel— For the purpose of making entry of a vessel engaged in foreign trade, the master thereof shall present the following documents, duly certified by him, to the boarding officer of customs.

'(a) The original manifest of all cargo destined for the port, to be returned with boarding officer's indorsement.

* * * * *

"And Section 1228 provides:

'Sec. 1228. Manifest required of vessel from foreign port.— every vessel from a foreign port or place must have on board complete written or typewritten manifests of all her cargo.

'All of the cargo intended to be landed at a port in the Philippines must be described in separate manifests for each port of call therein. Each manifest shall include the port of departure and the port of delivery with the marks, numbers, quantity, and description of the packages and the names of the consignees thereof. Every vessel from a foreign port or place must have on board complete manifests of passengers, immigrants, and their baggage, in the prescribed form, setting forth their destination and all particulars required by the immigration laws; and every such vessel shall have prepared for presentation to the proper customs official upon arrival in ports of the Philippines a complete list of all ship's stores then on board. If the vessel does not carry cargo, passengers, or immigrants, there must still be a manifest showing that no cargo is carried from the port of departure to the port of destination in the Philippines.

'A cargo manifest shall in no case be changed or altered, except after entry of the vessel, by means of an amendment by the master, consignee, or agent thereof, under oath, and attached to the original manifest."

One, if not the main, reason given by the Court of Tax Appeals in holding that the RPS "MISAMIS ORIENTAL" was not required to present any manifest to the customs authorities upon its arrival in Manila was that Sections 1221, 1225 and 1228 of the Administrative Code aforequoted are found under Article VI of the Customs Law, the

title of which reads: "Entrance of vessels in foreign trade"; that the said article lays down rules governing entry of vessels engaged in foreign trade; and that inasmuch as the navy vessel in question was not engaged in foreign trade it was not required to submit the manifest provided for in section 1225. The Tax Court took the view that under said Article VI of the Customs Law including the different sections of the Administrative Code under it, only vessels engaged in foreign trade are required to submit manifests upon entering any Philippine port. The Tax Court apparently overlooked the reason behind the requirement of presenting a manifest and allowed itself to be swayed by the title of the law. Resort to the title of a statute as an aid in interpretation thereof is an unsafe criterion, and is not entitled to much weight. (50 Am. Jur. 301). The title can be resorted to as an aid where there is doubt as to the meaning of the law or the intention of the legislature in enacting it, not otherwise.

The Tax Court also overlooked or failed to give due consideration to the provisions of Section 1228 which requires that every vessel from a foreign port or place must have on board complete written or typewritten manifests of all her cargoes. Said provision is quite comprehensive, if not all inclusive, with the exception perhaps of vessels mentioned in the second paragraph of Section 1221, namely, war vessels or vessels employed by any foreign government. This is presumably out of international practice. In our opinion all other vessels coming from foreign ports, whether or not engaged in foreign trade, arriving or touching upon any port in the Philippines should be provided with a manifest which must be presented to the customs authorities. The reason for requiring a manifest is well stated in the brief for the Commissioner of Customs which we quote with favor:

"Whether the vessel be engaged in foreign trade (Sections 1221 and 1225, Revised Administrative Code) or not (Section 1228), and even when the vessel belongs to the army or the navy (Section 1234), the universal requirement from a reading of all the foregoing provisions is that they be provided with a manifest. The reason is obvious, and must stem from marine experience. As the name of the document suggests, a manifest is obviously meant to place beyond doubt the nature of the load or of the cargo that a vessel carries. The manifest is therefore intended to be an indication, if not an open declaration, that the vessel is not engaged in smuggling or in surreptitious practices and activities. If the making of a manifest were to be a monopoly of vessels engaged in foreign trade, it is plain that other vessels would be understood as licensed to engage in undesirable marine activities, a consequence so absurd as to need no further explanation."

The reason for requiring a manifest in the United States is also stated in the case of *U.S. vs. Sischo*, 262 U.S. 165:

"The collection of duties is not the only purpose of a manifest, as is shown by the requirement of one for outward-bound cargoes and from vessels in the coasting trade bound for a port in another collection * * * A government wants to know, without being put to a search, what articles are brought into the country, and to make up its own mind not only what duties it will demand, but whether it will allow the goods to enter at all. It would seem strange if it should except from the manifest demanded those things about which it has the greatest need to be informed, — if in that one case it should take a chance of being able to find what it forbids to come in, without requiring the master to tell what he knows. It would seem doubly strange when, at the same time, it required any other person who had knowledge that the forbidden article was on the vessel to report the fact to the master." 19 USCA. p. 821.

Were we to confine the requirement about the preparation and presentation of a manifest to vessels engaged in foreign trade, what about private vessels, yachts, pleasure boats or cruisers or steamships on a world cruise for tourists, and ships chartered for a special mission or purpose, all of which though not engaged in foreign trade, nevertheless could bring into the country not only dutiable goods, but also articles of prohibited importation. The customs laws could not have intended to exempt all these vessels from the requirement to present a manifest. Then we have Section 1234 of the Revised Administrative Code which we quote below:

"SEC. 1234. Entry of transport or supply ships of the United States Army or Navy.— The master or other officer in charge of a transport or supply ship of the United States Army or Navy, arriving from a foreign port

at any port in the Philippines, shall, for the purpose of making entry of his vessel, present a manifest in duplicate, containing the following information, duly certified by him to the boarding officer or collector of customs:

"(a) A list of all supplies of the United States Government, for use of the Army, Navy, or Public Health Service, or of the Government of the Republic of the Philippines.

"(b) A list of all property of officers and enlisted men aboard, or of civilians carried as passengers.

"(c) A list of all other goods, wares, merchandise, or effects on board.

"(d) A list of all passengers on board, other than enlisted men of the Army, Navy, or other department of service, giving the name, sex, age, occupation, status, or rank, last permanent residence, port of embarkation, and destination, of each such passenger. The number of enlisted men on board should be stated, giving their designation, regiment, or department."

In connection with this legal provision above quoted, the Commissioner of Customs in his decision appealed to the Court of Tax Appeals said the following:

"* * *. Even before our country attained its independence, and while the United States sovereignty was supreme over the Philippines, the master or other officers in charge of a transport or supply ship of the United States Army and Navy was required by law (Sec. 1234 of the Revised Administrative Code) to present to the boarding officer or the Collector of Customs, a duly certified manifest in duplicate, containing, among others, a list of all properties of officers and enlisted men, or of civilians carried as passengers, and a list of all other goods, wares, merchandise, or effects on board. To sustain the proposition that vessels owned by the government are not within the pale of the customs laws and regulations is not only absurd but also fraught with serious implications, for the irony thereof is that such vessels may bring, unhampered, into this country dutiable and/or prohibited merchandise and goods, or, to state it bluntly, they may engage in the very activity which they are called upon to prevent and suppress."

But the Court of Tax Appeals equally held that Section 1234 is not applicable to vessels of the Philippine Navy for the reason that said section applies only to ships of the United States Army or Navy, and that if our legislature had really wanted or intended to make its provisions applicable to our navy ships, it should have made the corresponding change or amendment of the section. We agree that it should have been done. But we believe that there was no necessity where as in the present case the application of said section to our navy ships is so clear and manifest, considering that the reasons for requiring a manifest from transport and supply ships of the army and navy of the United States are and with more reason applicable to our navy ships to carry out the policy of the government, and because we have complete control over them.

We therefore believe and hold that the RPS "MISAMIS ORIENTAL" was required to present a manifest upon its arrival in Manila on September 2, 1954.

The Court of Tax Appeals, however, believed and found that even if a manifest were required of the RPS "MISAMIS ORIENTAL", still, one was actually presented by one of its officers to customs authorities through one Mr. Casimiro de la Ysla on September 3, 1954. This, Ysla denied. And after carefully studying the evidence on record and considering the circumstances attending the case, we are inclined to agree with the Collector of Customs and the Commissioner of Customs who upheld him that no such manifest required by law was submitted to the customs authorities upon the arrival of the RPS "MISAMIS ORIENTAL".

If a manifest had really been delivered to the customs authorities upon the arrival of the RPS "MISAMIS ORIENTAL" there was no reason whatsoever for Ysla to deny receipt thereof; and there would have been no occasion or reason for the Acting Collector of Customs on September 17, 1954 to write to the Chief of Staff of the Armed Forces of the Philippines stating that according to his information "a copy of the ship's manifest covering said cargo had been secured by that office from the Commanding Officer of the vessel" and request that two

copies thereof be furnished the Bureau of Customs. Why should the Bureau of Customs ask for copies of the manifest if as claimed by the navy authorities such manifest had already been delivered to them?

Again, it had always been the contention and the belief of the navy authorities that Philippine navy vessels were not required to prepare and deliver this manifest upon their arrival in the Philippines from foreign ports. In fact there is evidence to the effect that on two different occasions prior to the arrival of RPS "MISAMIS ORIENTAL" on September 2, 1954, Philippine navy vessels had arrived from abroad with merchandise presumably for personal use of officers and men of the Philippine navy and that no manifest had been presented covering said goods, which goods never went through customs. This belief and attitude of the Philippine navy authorities is reflected in the letter of Commodore Francisco, dated October 9, 1954, answering the letter of inquiry and request of the Acting Collector of Customs, dated September 17, 1954 wherein he said:

"In this connection, this Command feels that the pertinent provisions of the Revised Administrative Code relative to vessels coming from foreign ports are not applicable to vessels of the Philippine Navy as the same are war vessels, exempted under Section 1221 of said code. If your office holds a contrary opinion, a clarification of this matter is requested."

With this belief and attitude of the Philippine navy authorities, it was not likely that a manifest of the goods carried by the RPS "MISAMIS ORIENTAL" was prepared on board while the boat was still in Japan, much less was a copy of the manifest if made, was delivered to customs authorities.

Furthermore, according to the Commissioner of Customs, we quote from his decision:

"* * * The record shows that the officers of the RPS 'MISAMIS ORIENTAL' insistently pleaded for the exemption of their vessel from customs requirements regarding the presentation of cargo manifest, perhaps not realizing that laws must be equally enforced— among public officers and private citizens alike. Besides, to accord the vessel with such exceptional privilege may result in government vessels comprising public trust and duty and serving two incompatible masters— the government on one hand, and the tax-evader on the other.. Thus the Government is rendered helpless in such cases to prevent its being defrauded of lawful duties and taxes."

If a manifest had already been prepared by the officers of the ship, and that a copy thereof had been presented to the customs, why all this insistence and plea, that they be excused from and relieved of the duty of presenting a manifest when they were found to be without one?

Moreover, if said manifest had actually been delivered to customs authorities upon the arrival of the RPS "MISAMIS ORIENTAL" in Manila, then in the regular course of things the customs authorities would have inspected the same, assessed customs duties on them if found dutiable, or released them if otherwise. And yet the only time when the customs authorities learned of the existence of the goods and merchandise on board the RPS "MISAMIS ORIENTAL" was when according to the decision of the Collector of Customs a confidential information was received in the office of the Port Patrol Division of the Bureau regarding the presence of commercial goods on board the RPS "MISAMIS ORIENTAL" and after interception by the Port Patrol Policeman Consorcio Javier of a truckload of cases leaving the customs zone from the navy boat. We further quote from the decision of the Collector of Customs:

"* * * To verify the truth of this information, Col. Manuel Turingan, then General Supervisor of the Security Division of the Bureau of Customs, and Atty. Salvador Mascardo, Chief of the Investigation Section of the Port Patrol Division, went to Piñatran on September 6, 1954 where the Philippine Navy boat mentioned above was then docked. Upon arrival thereat, they were met by the Commanding Officer of the above-named vessel, who, when asked, informed them that there were really commercial goods on board his ship. When the merchandise were brought to and examined at the customhouse, they were found to be not covered by the

required cargo manifest, bills of lading, consular invoices, and Central Bank licenses and release certificates. Hence, the seizure."

Besides, according to the regulations of the Bureau of Customs, as well as the practice of that office, when a vessel arrives from a foreign port, a customs boarding officer boards the ship and a copy or copies of the cargo manifests are delivered to him by the master of the vessel, and he makes a proper indorsement thereof including the date of delivery to him (boarding officer). And according to Section 1229 of the Revised Administrative Code, the master of the vessel shall immediately mail to the Auditor General a copy of the cargo manifest properly indorsed by the boarding officer. If as claimed by the navy authorities, the law about cargo manifests had been fully complied with and that a copy of said manifest was delivered to an officer of the Bureau of Customs who had the duty of indorsing and dating the same and that a copy thereof had been mailed to the Auditor General, it was not explained why said navy authorities failed to produce at the hearing their copy of said manifest duly indorsed by the boarding officer; neither did they try to subpoena the Auditor General to produce the copy which should have been mailed to him. All these point to the conclusion that no such cargo manifest was ever delivered to the customs authorities upon the arrival of the RPS "MISAMIS ORIENTAL".

In conclusion, we hold that all vessels whether private or government owned, including ships of the Philippine navy, coming from a foreign port, with the possible exception of war vessels or vessels employed by any foreign government, not engaged in the transportation of merchandise in the way of trade, as provided for in the second paragraph of Section 1221 of the Revised Administrative Code, are required to prepare and present a manifest to the customs authorities upon arrival at any Philippine port.

In view of the foregoing, the appealed decision of the Court of Tax Appeals as regards the forfeiture of the electric range in question is set aside, and the decision of the Commissioner of Customs affirming that of the Collector of Customs, as regards the same article is hereby affirmed. No costs.

Paras, C. J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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