

ANGEL NASIAD AND ERNESTO LOZADA, PETITIONERS AND APPELLANTS, VS. THE COURT OF TAX APPEALS, RESPONDENT AND APPELLEE.*G.R. No. L-29318. November 29, 1974*

Ponente: FERNANDO, J.

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It is a circumstance, not devoid of significance, that petitioners, in seeking a reversal of a decision of the Court of Tax Appeals dated April 26, 1968, affirming the forfeiture decreed by the Commissioner of Customs of smuggled copra and coffee, would concentrate on the alleged violation of the constitutional guarantee against illegal searches and seizures.[1] It is undoubted that there was a raid conducted on September 19, 1966 on a vessel owned by a certain Jose G. Lopez, followed thereafter in the afternoon by the seizure of certain documents found in the hotel room of the charterer, one Tomas Velasco, both of whom are third parties. Petitioners were not the persons whose rights were trampled upon. To state the basic contention as thus posed would readily disclose the lack of merit of this appeal. The invocation of *Stonehill vs. Diokno*,[2] as pointed out in the comprehensive answer of the then Solicitor General Antonio P. Barredo,[3] now an Associate Justice of this Court, is futile and unavailing. For even on the hypothetical assumption of the illegality of the search and seizure, the evidence secured were not utilized against the persons who were possessed of the standing to complain of the alleged transgression of their rights. Moreover, as will be shown, the facts as found by respondent Court, well-nigh conclusive on us, can precisely for the judgment as thus rendered. The denial that there was any smuggling was to be expected. That did not make it any more convincing. Nor did petitioners gain in any wise by the employment of such language of hyperbole as "unmitigated acts of plunder, vandalism and robbery" attributed to the law-enforcement teams.[4] That at the most was a conjecture dressed up in gaudy rhetoric that needed support in the evidence, to be of any persuasive effect, again even if the attack on the search could validly emanate from such quarter. There is nothing in the petition then that will justify a reversal of the decision of respondent Court of Tax Appeals.

As noted in the appealed decision, the issue submitted "for resolution is the legality of the seizure made by the Collector of Customs of Davao of the 1,408 sacks of copra and 86 sacks of coffee allegedly owned by the petitioners." [5] Then came this portion: "Petitioners claim that the 1,408 sacks of copra and 86 sacks of coffee in question were purchased in Kiamba, Lumatín, and Lumasal, all in the province of Cotabato, from a certain Osmena Juanday. Petitioners contend that, inasmuch as the said goods were not imported and of foreign origin, they are not legally subject to seizure and forfeiture. They likewise contend that the forfeiture made by the Collector of Customs of Davao was invalid because the said forfeiture was based on documents and papers which were illegally seized by agents of the Government through violence and intimidation. Respondent denies petitioner's claim. He contends that the evidence is sufficient to hold that the goods in question came from Indonesia and subsequently brought to the Philippines in violation of our laws and, therefore, subject to forfeiture; and that the Indonesian documents and papers allegedly secured illegally by the combined team of NBI, PC and

RASAC agents stationed in Davao, were in fact lawfully and validly secured by them. Consequently, said documents and papers are admissible in evidence in the forfeiture proceedings instituted administratively by the Collector of Customs of Davao.[6] It was then set forth: "The voluminous [evidence] of record clearly show that M/V [Jolo Lema] had been under strict surveillance by the combined team of agents of the NBI, PC, RASAC, and City Police of Davao prior to its apprehension at a private wharf in Batjak, Sasa, Davao City; that the said M/V [Jolo Lema] was skippered (sic) by Capt. Aquilino Pantinople and chartered by Mr. Tomas Velasco during the period from the latter part of August to September 18, 1966, the said vessel was in Indonesian waters where it loaded copra and coffee beans from Taruna, Pitta, and Mangenito, all of Indonesia ***; that in its trip to Indonesia it brought various merchandise from the Philippines which were exchanged and/or bartered for copra and coffee beans and subsequently taken to Davao City ***; and that said vessel passed Marore, Indonesia on September 18, 1966 on its way to Tahuna, Indonesia *** before proceeding to Davao City where it was apprehended on September 19, 1966." [7] Then came the reference to the evidence and the testimonies of the witnesses of both parties, being appraised by respondent Court, which did not find any ground to discredit the finding of respondent Collector of Customs. As therein pointed out: "The evidence does not show any plausible motive for respondent's witnesses to falsify the truth because they represent different agencies of the government. From all appearances, they have no personal interest whatsoever over the goods subject of the forfeiture proceedings. Besides, petitioners have not adduced any evidence showing that they were enemies of the witnesses for the government. In short, no iota of evidence was ever presented by the petitioners to destroy the integrity of the government witnesses and to cast a cloud of doubt on their testimonies." [8] Also: "The decision of the Collector of Customs of Davao shows that a petitioner herein and at the same time one of the claimants of the confiscated copra and coffee beans, Mr. Ernesto Lozada, is the Officer-in-Charge of the vessel M/V [Jolo Lema]. It is not surprising, therefore, that the members of his crew repudiated their sworn statements given to government agents." [9] Then, lastly: "Moreover, petitioners failed to explain satisfactorily, much less refute the vital testimony of Fiscal Mariano Umali of the Department of Justice, Manila, that the various Indonesian documents *** duly authenticated by the Indonesian Consulate in Manila, show in clear detail that the vessel M/V [Jolo Lema] was in Indonesia during the period from the latter part of August to September 18, 1966, and that it loaded copra and coffee beans therein before the said vessel returned to Davao City on September 19, 1966. Petitioners' failure to successfully dispute or destroy said testimony by competent and reliable evidence strongly indicates that the copra and coffee beans in question were imported from Indonesia." [10]

What other decision could there be, in the light of the above facts and the relevant statutory provisions, except one sustaining the forfeiture. So respondent Court of Tax Appeals ruled. This appeal was taken by petitioners. They have not, as made clear at the outset, made out a case for reversal. We affirm.

1. The "factual backdrop" already made mention of in the opening sentence of this petition dealt solely with the alleged illegality of the search and seizure on September 19, 1966, carried out on board the vessel, the M/V Jolo Lema, and the hotel room of a certain Tomas Velasco. After which, there was this characterization by petitioners as to the government's case for forfeiture being "founded on quicksand." [11] That was a far-from-felicitous choice of words. It did backfire on them. In the light of the proven facts and the applicable law, it is their appeal that is "founded on quicksand." Necessarily, it had to collapse of its own weight or, more properly speaking, of its own lack of weight. So it was made plain in the answer submitted by the then Solicitor General Antonio P. Barredo. One of the special and affirmative defenses submitted is that petitioners have no cause of action. Thus: "2. Petitioners have no cause of action – because – (a) They have no personality to contest the searches and seizures were allegedly conducted, the vessel belonged to Jose G. Lopez and was chartered by Tomas Velasco, and the hotel room was occupied by said Velasco and his wife, and so petitioners not being parties-in-interest over the so-called Indonesian documents and effects *** , petitioners may not invoke the Constitutional right against

unlawful search and seizure *** (b) The disputed evidence was presented in CTA No. 1855 (Angel Nasiad and Ernesto Lozada, petitioners, vs. The Commissioner of Customs, respondent) only against petitioners Angel Nasiad and Ernesto Lozada, who, as already adverted to, can not invoke the aforesated Constitutional objection. (c) Inapplicable here is the doctrine enunciated in *Stonehill vs. Diokno, et al.*, G.R. No. L-19550, June 19, 1967, in view of the existence of the following circumstances in the instant case: (1) The vessel's search was effected as an incident of a lawful arrest, and the hotel room was never searched at all; (2) The disputed evidence was voluntarily delivered to NBI Agent Reynolds by the persons who had custody thereof; and (3) As already previously stated, said disputed Indonesian documents and effects were not used as evidence against the persons who have interests thereon, namely, Jose G. Lopez and Tomas Velasco." [12]

There is force and substance to the contention that *Stonehill vs. Diokno* [13] is inapplicable. As was so clearly pointed out in the opinion rendered by the then Chief Justice Concepcion: "Indeed, it is well settled that the legality of a seizure can be contested only by the party whose rights have been impaired thereby, and that the objection to an unlawful search and seizure is purely personal and cannot be availed of by third parties. Consequently, petitioners herein may not validly object to the use in evidence against them of the documents, papers and things seized from the offices and premises of the corporations adverted to above, since the right to object to the admission of said papers in evidence belongs exclusively to the corporations, to whom the seized effects belong, and may not be invoked by the corporate officers in proceedings against them in their individual capacity." [14] Petitioners are thus bereft of any legal support. Their effort to condemn respondent Court when it took into consideration the evidence yielded by what was alleged to be illegal searches and seizures is marked by futility. Only by disregarding a doctrine aptly characterized as "well-settled" could the slightest attention be paid to their submission. That, we are not disposed to do. It is one thing to assure that constitutional rights remain inviolate; it is an entirely different matter, one devoid of justification in law, no less than in morals, one moreover at war with the valid state policy against the evils of smuggling, if a constitutional right, personal in character, could be seized upon by a third party engaged in an illegal activity. That would be to demean a constitutional mandate. For even a cursory perusal of what did transpire yields no other conclusion except that the forfeited cargo of copra and coffee was smuggled. The Commissioner of Customs who decreed the forfeiture had thus to be sustained by respondent Court of Tax Appeals.

2. Its findings of facts is entitled to respect. It has been the constant holding of this Court from *Sanchez v. Commissioner of Customs*, [15] a 1957 decision, to *Vi Ve Chemical Products, Inc. vs. Commissioner of Customs*, [16] promulgated only last September, that in the absence of a showing of an abuse or improvident exercise of the authority of respondent Court, the facts as determined by it must be accorded deference. They are well-nigh conclusive. [17]

WHEREFORE, the decision of respondent Court of Tax Appeals dated April 26, 1968 is affirmed. Costs against petitioners.

Makalintal, C.J., Antonio, Fernandez, and Aquino, JJ., concur.

Barredo, J., took no part.

[1] Under the 1935 Constitution then in force, it is provided in Article III, Sec. 1, par. (3): "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." Such a provision is reproduced in substantially the same language in Article IV, Sec. 3 of the present Constitution, one notable modification being that the probable

cause may now "be determined by the judge, or such other responsible officer as may be authorized by law, ***"

[2] L-19550, June 10, 1967, 20 SCRA 383.

[3] He was assisted by the then Assistant Solicitor General, now Judge Augusto M. Amores.

[4] Petition, par. 1, under the heading, The Case and the Facts, 5.

[5] Ibid, Decision of the Court of Tax Appeals, Annex E, 3.

[6] Ibid, 4-5.

[7] Ibid, 5-6.

[8] Ibid, 12.

[9] Ibid, 13.

[10] Ibid, 14-15.

[11] Ibid, par. 4.

[12] Answer of respondent Court of Tax Appeals, 17-19.

[13] L-19550, June 19, 1967, 20 SCRA 383.

[14] Ibid, 390.

[15] 102 Phil. 37.

[16] L-28693, September 30, 1974.

[17] Cf. *Castro vs. Collector of Internal Revenue*, L-12174, April 26, 1962, 4 SCRA 1093; *Commissioner vs. Priscila Estate, Inc.*, L-18282, May 29, 1964, 11 SCRA 130; *The Philippine Guaranty Co., Inc. vs. Commissioner of Internal Revenue*, L-22074, Sept. 6, 1965, 15 SCRA 1; *Yupangco and Sons vs. Commissioner of Customs*, L-22259, Jan. 19, 1966, 16 SCRA 1; *Republic vs. Razon*, L-17462, May 29, 1967, 20 SCRA 234; *Balbas vs. Domingo*, L-19804, Oct. 23, 1967, 21 SCRA 444; *Reyes vs. Commissioner of Internal Revenue*, L-24020, July 29, 1968, 24 SCRA 198; *Chu Hoi Horn vs. Court of Tax Appeals*, L-22046, Oct. 29, 1968, 25 SCRA 809; *Dy Peh vs. Collector of Internal Revenue*, L-19375, May 21, 1969, 28 SCRA 216.

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