

JOSE B. LINGAD, AS COMMISSIONER OF CUSTOMS AND PEDRO PACIS, AS ACTING COLLECTOR OF CUSTOMS, MANILA, PETITIONERS, VS. HON. HIGINIO B. MACADAEG AND AGRO INDUSTRIAL PRODUCT, INC., ...

G.R. No. L-20184. July 30, 1964

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Petition for a writ of certiorari to set aside a preliminary mandatory order issued by the Court of First Instance of Manila on August 13, 1962, in its Civil Case No. 471659, the dispositive part of which is of the following tenor:

"In view of the foregoing, by way of supplementing this Court's preliminary mandatory order of January 22, 1962 and in accordance with the Implementation Agreement of the parties of June 7, 1962, the Commissioner of Customs and his deputy the Collector of Customs for the Port of Manila, and all their subordinates and employees and all persons acting under them, are hereby ordered to effect the immediate transfer of the tobacco importation of Agro Industrial Products Inc., excepting the first 1/6 being cleared for release, to each customs officials and may be acceptable to the said importer's bank.

SO ORDERED."

For a background, it is to be recalled that this Supreme Court, by a final decision rendered on April 18, 1962, in its Civil Case G. R. No. Lr-19440, entitled "Climaco, et al. vs. Macadaeg, et al.," upheld the right of the Agro Industrial Products, Inc. (Agro for short) to import in 1961 21,618 hogsheads of Virginia tobacco (9,353,471 kilos) under terms and conditions set by the then President of the Philippines, Carlos P. Garcia, overruling the opposition of the Customs authorities and others. Pending resolution of a motion for reconsideration and clarification, the parties in that case, the Commissioner and the Collector of Customs, the Central Bank of the Philippines, the ACCFA (Agricultural Credit and Cooperative Financing Administration), and the importer, Agro Industrial Products, Inc. entered into an "Agreement for the Implementation of the Supreme Court decision" on 7 June 1962, whereby the Agro Industrial company's tobacco shipments would be gradually released by i/6 parts upon compliance by the importer of certain specified formalities and conditions. Paragraph 6 of the implementation agreement (Rec, page 20) recited the following:

"6. As to Agro's request for immediate transfer of the imported tobacco from the piers to such customs bonded warehouses that the Collector may designate and acceptable to Agro's banks, pending resolution of the motion for clarification by the Supreme Court, it is tentatively agreed in principle that Agro may do so after the tobacco is weighed, examined and the taxes paid or secured to be paid; and that the said tobacco is, after such transfer, insured, including the taxes and duties due thereon, against loss by fire, theft, flood or any other calamity; and upon compliance with pertinent customs rules and regulations on such transfers to the aforesaid customs bonded warehouses."

Over one month after the implementation agreement was executed, i.e., on July 31, 1962, the Supreme Court

resolved[1] that, in view of Agro's tender import entries and customs duties in 1961, improperly rejected by petitioner Customs authorities, the customs duties due and collectible from Agro on account of its tobacco importation were those duties in force in 1961, and not the increased ones in force in 1962; and that Agro's export of filler tobacco was not a condition for its importation. In View of this resolution, Agro asked the Customs authorities to release the 1/6 of its import upon tender of 1961 duties, as per agreement, and to allow the transfer of the remaining 5/6 to Customs bonded warehouses to forestall additional customs storage charges which are four times more than those of bonded warehouses, and to provide adequate storage facilities for the tobacco. As the Customs authorities delayed answer, Agro filed an urgent motion in the Court of First Instance, where the import case was pending. According to the petition in this case before us (par. XI) (Rec, pp. 4-5) :

"XI

During the hearing of the Urgent Motion on August 18, 1962, before the respondent Judge, the Hon. Higinio B. Macadaeg, the herein petitioners did not object to the transfer of the remaining 5/6 of the shipment to customs bonded warehouses with the following conditions:—(1) that Agro should file the warehousing entry in accordance with Section 1906 of the Tariff and Customs Code (R.A. No. 1937); (2) that before the transfer of such remaining shipment to customs bonded warehouses, the shipment should first be examined and weighed by the Appraisers' Division and when the duties, taxes and other charges had been determined a bond equivalent to one and one-half times the amount thereof conditioned upon the withdrawal of the articles within the prescribed period and for the payment of any duties, taxes and other charges to which the articles shall be subject in accordance with the provisions of Section 1904 of Republic Act 1937; (3) that after the transfer to such customs bonded warehouses which the Collector may designate and acceptable to Agro's bank, said tobacco is insured, including the taxes and duties due thereon, against loss by fire, theft, flood or any other calamity; and (4) that after the transfer and before the Collector of Customs finally releases such tobacco to Agro from the customs bonded warehouses, the corresponding duties, taxes and other charges due therefrom must first be paid upon presentation of the corresponding release certificate from the Central Bank. The foregoing conditions interposed by the Collector for the release of the tobacco are in accordance with customs rules and regulations and pursuant to the provisions of Section 1906 of the Tariff and Customs Code, and the Implementation Agreement (Par. 6, Annex "I" attached to Annex C of this petition)"

In the challenged order of August 1«J, 1962, the respondent Judge Macadaeg of the Manila Court overruled Customs objections, and held that (Rec, pp. 38-39)—

"* * * it would avoid delay and needless expenses and considering that the total shipments consist of approximately 7000 hogsheads, for tobacco shipments stored in the piers to be now weighed and examined and thereafter transferred to bonded warehouses where they will remain under customs custody, so that they may be ready for release and delivery upon completion of the first 1/6 shipment in accordance with the implementation Agreement of the parties. While Atty. Coronel of the Bureau of Customs manifested, upon advice of Solicitor Rosete, that even if Agro should file warehousing entries for the said shipments, the rate of duties that would be collected thereon would be the 1961 rates as held by the Supreme Court and not be the present year's rates at the time of the withdrawal ns provided by the Tariff and Customs Code for such warehousing entries, the Court holds that it is a superfluous technically to require the filing of warehousing entries, which the Customs' legal counsel candidly admits might give rise to such technicalities. This was not a condition in the parties' Implementation Agreement and the Supreme Court has upheld the entry papers as offered by Agro in 1961. Technicalities should not stand in the way of the expeditious release of the tobacco, which has already caused considerable damage and injury as held by the Supreme Court."

and granted Agro's motion. Their motion for reconsideration having been denied, the Commissioner of Customs and the Collector of Customs for Manila, Cesar Climaco and Teotimo Roja, resorted to this Court, charging abuse of discretion and asking certiorari. In June of 1964, they were substituted by petitioners Jose 6. Lingad, as present

Commissioner of Customs, and Pedro Pads, as present Collector for the Port of Manila. '

The main burden of the petitioners' complaint is that the challenged order allegedly violates the Tariff Code (Rep. Act No. 1937), section 1906, because said order would, in effect, compel the Customs authorities to permit the transfer of imported merchandise to bonded customs warehouses upon consumption entries filed by Agro, instead of warehousing entries, as allegedly contemplated by law.

The trouble with the petitioners' stand, and one that makes it untenable, is that petitioners seek to ignore that the original entries for consumption covering these goods and tendered by Agro in 1961 have been held valid by the Supreme Court in the previous case (G.R. No. L-19440), and said entries were declared improperly rejected by the Customs authorities. Such being the case, Customs officers can no longer require new customs entries for the very same goods; the law does not demand or authorize any such duplication of customs entries for the identical merchandise. If in the instant case five-sixths (5/6ths) of the tobacco is to be warehoused, it is not because of any requirements of the Customs and Tariff Code but because the implementation agreement (of 7 June 1962) so provides (par. 6, previously quoted). The court below, therefore, correctly held that the demand upon Agro to file warehousing entries, notwithstanding the ones filed in 1961, was a superfluous technicality that would serve no useful purpose.

It may be added that by insisting on the retention of the tobacco in the Customs premises, where storage charges are four times higher than those of bonded warehouses, the petitioners are practically penalizing the importer for having obtained this Court's decision in its favor.

The petitioning Customs officers stress that the implementation agreement stipulates that the transfer to the bonded customs warehouses was to be "upon compliance with pertinent customs rules and regulations". These words, however, can not be understood to include the filing of new customs entries, since the previous entries already filed in 1961 have been recognized as valid and binding by the Supreme Court; otherwise, the agreement of June 7, 1962, if construed to require new customs entries, would invalidate those of 1961; it would not then be in implementation of the decision in Case G. R. No. L-19440 but would be one to evade or shortage its effects. Petitioners would be incredibly naive if they believed or expected that courts would permit them to circumvent a final decision of the highest tribunal of the land, when their duty is to comply with it in all honesty and good faith.

Since the prerogative writ of certiorari does not lie except to correct, not every misstep, but a grave abuse of discretion, i.e., a capricious arbitrary or whimsical exercise of judgment equivalent to lack of jurisdiction^[1], and since the contested order is in pursuance of the decision and resolution of this Supreme Court in G. R. No. L-19440, and in full accord with the intent and spirit thereof, we are left with no alternative but to dismiss this petition.

Wherefore, the writ of certiorari prayed for is denied. No costs.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Paredes, Regala and Makalintal, JJ., concur.

[1] Resolution on Motion to Reconsider, G.R. No. L-19440.

[(1)] Abad Santos vs. Province of Tarlac, 67 Phil., 480; Tavera-Luna, Inc., vs. Nable, 67 Phil., 340; Tan vs. People, L-4260, April 27, 1951; Hamoy vs. Sec. of Agriculture, L-13456, January 20, 1960.

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