

TRANQUILINO ROVERO PETITIONER, VS. RAFAEL AMPARO AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH III, THE REPUBLIC OF THE PHILIPPINES AND THE SHERIFF OF THE CITY OF MA...*G.R. No. L-5482. May 05, 1952*

Ponente: MONTEMAYOR, J.

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By minute resolution dated February 15, 1952, the present petition for certiorari and/or prohibition with preliminary injunction was dismissed for lack of merit. In a motion for reconsideration petitioner prayed this Court to set aside said resolution and to give due course to the petition. Although after studying said motion for reconsideration the court still firmly believes that the original petition should be dismissed for lack of merit, and that its resolution of dismissal should still stand, however, because of the importance of this case and for the future guidance of the Government administrative officials concerned, as well as private citizens dealing with said officials as regards the importation of goods subject to duty, we have decided to promulgate a resolution embodying our reasons for dismissing the petition.

Briefly, the facts pertinent to the present case are as follows: The petitioner Tranquilino Rovero in the evening of April 25, 1947, arrived at the Makati Air Port on board a PAL plane which came from Bangkok, Siam. He brought with him several pieces of baggage, among which was a Chinese vase which he declared and valued at P15.00. The vase together with some of the baggage were retained by the Customs officials for they suspected that they contained merchandise not declared which should pay customs duty. In the course of the examination of said Chinese vase, it was found that it had a false bottom which upon being broken open was seen to hold a tin can containing 259 pieces of jewelry with precious stones, which the Customs officials appraised at P23,736. Rovero never mentioned to said Customs officials the presence of said pieces of jewelry in the Chinese vase. The jewelry was, therefore, seized as property subject to forfeiture under Section 1363 (m-2) in relation to Section 1292 of the Revised Administrative Code.

Rovero admitted that the pieces of jewelry belonged to him, he having bought them in Bangkok for \$4,353, U.S. currency, and that he purposely concealed them in the false bottom of the Chinese vase. Among the reasons given by him for not declaring said jewelry in his baggage declaration were that he was afraid that he might be robbed by hold-up men, and that he did not then have enough cash with which to pay the duties and taxes which he figured to amount to about P6,000. Evidently, the Customs officials were not impressed by his explanation.

In connection with the fraudulent bringing into the Philippines of said jewelry, the case was referred to the City Fiscal for prosecution. Finally, Rovero was found guilty of violating Section 2703 of the Revised Administrative Code and sentenced to pay a fine of P2,500, with subsidiary imprisonment in case of insolvency, plus costs. In a decision dated December 23, 1947, in Identification Case No. 555, entitled "Republic of the Philippines versus Two Hundred and Fifty-nine (259) Pieces of Jewelry (Tranquilino Rovero, Claimant)", the Commissioner of

Customs found that Rovero had attempted to import the jewelry by fraudulent entry; that it was not the first time that Rovero was guilty of fraudulent entry against the Government, because in Identification Case No. 483, decided on March 31, 1947, Rovero was fined by the Commissioner of Customs in an amount equal to three times the customs duty due on a piece of Jewelry which was not declared in his baggage declaration and which was found concealed in his wallet. For this reason the Commissioner of Customs declared that the seizure of said 259 pieces of jewelry was proper, and that such jewelry was subject to forfeiture under Section 1363 (m-2) of the Revised Administrative Code; but that under Section 1365 of the same Code, forfeiture was waived and In lieu thereof a fine in an amount equal to three times the appraised value of the jewelry was imposed, it being understood that the jewelry may be delivered to Rovero upon payment of the legal duties, compensating tax and other charges due thereon, plus the fine, and that upon his failure to take delivery of the articles, and after the decision has become final the jewelry will be sold at public auction for the satisfaction of the Government's claim. Not satisfied with that decision Rovero appealed the case to the Court of First Instance of Manila which later affirmed the decision of the Commissioner of Customs, with costs. Rovero again appealed the court's decision to this Tribunal under G. R. No. L-3281,[*] and in a decision promulgated on June 28, 1951, the decision appealed from was affirmed, with costs.

After the promulgation of the decision of the Supreme Court, Rovero wrote to the Commissioner of Customs a letter, Exhibit D, dated 19 July 1951, stating that the case of the 259 pieces of jewelry was still pending in this Tribunal, and petitioning for a reappraisal of said jewelry. Acting upon said petition the Collector of Customs in a memorandum order, Exhibit E, dated August 8, 1951, by order of the Commissioner of Customs created a Committee on Reappraisal composed of three members with Instructions to render its report to said Collector of Customs thru the Chief Appraiser. The next day, August 9, 1951, the Committee filed its report, Exhibit F, wherein the said 259 pieces of jewelry were reappraised at P9,880. On the same day the Chief Appraiser forwarded this report to the Collector of Customs, Exhibit G, and the Collector of Customs the next day, August 10, 1951, transmitted the report to the Commissioner of Customs, Exhibit H. On August 13, 1951, the Commissioner of Customs forwarded the papers to the Secretary of Finance requesting Information as to whether the original appraisement of P23,736 of the jewelry involved, which appraisal the Commissioner found to be excessive, may be set aside and the reappraisal made by the Committee considered in the determination of the duties and fines that Rovero had to pay in accordance with the decision of the case. On August 23, 1951, the Honorable, the Secretary of Finance granted authority "for the setting aside of the original appraisement and for the collection of the fine imposed by the Supreme Court and of the customs duties and charges based on the reappraisal value of P9,880."

In a motion dated January 2, 1951 (should be 1952), the Solicitor-General on behalf of the Republic of the Philippines moved for execution of the decision of the Court of First Instance which had been affirmed by this Tribunal, Exhibit O. In a "manifestation of satisfaction of judgment" dated January 9, 1951 (should be 1952), Exhibit P, Tranquilino Rovero asked for the denial of the motion for execution on the ground that the judgment had already been satisfied, claiming that under Official Receipt No. B-2361606, dated August 16, 1951, the fine in lieu of forfeiture plus surcharge and other legal charges had already been paid, including sales tax. Incidentally, it should be here stated that according to Exhibit M entitled RECEIPT, dated August 23, 1951, Rovero received from the Collector of Customs the 259 pieces of jewelry after he had paid the corresponding duty and all charges and the fine of treble the reappraised value of P9,880 (not the original appraisal of P23,736). By order, Exhibit R, dated January 14, 1952, Judge Amparo of the Court of First Instance of Manila declared that it appearing from the "manifestation of satisfaction of judgment" that the full amount of the judgment had not been paid, said manifestation be stricken from the record, and he ordered the Sheriff to carry out the order of execution issued on January 14, 1952. A motion for reconsideration of this order was denied on February 4, 1952, and Rovero's urgent

motion for reconsideration dated February 6th was equally denied on February 8, 1952. To seek relief from said orders of Judge Amparo, petitioner Rovero has filed the present petition for certioari and/or prohibition with preliminary injunction.

To justify the reappraisal made by the Customs officials after the decision of this Court had become final, the provisions of Section 1368 is invoked. Said section reads:

"SEC. 1368. Supervision and control over judicial proceedings.—In the absence of special provision, judicial actions and proceedings instituted on behalf of the Government under the authority of the customs laws shall be subject to the supervision and control of the Commissioner."

It must be clear that the said supervision and control over judicial proceedings cannot be extended to the modification of a final decision of a court. The Commissioner of Customs may supervise and control the filing of pleadings, the conduct of the hearing, the presentation of evidence and even the taking of an appeal from a decision of the Court of First Instance, adverse to the Government, to the Supreme Court. But surely he cannot under the guise of supervision and control of judicial proceedings, modify or alter a final decision of a court, including an appellate court or stay execution of a final judgment in favor of the Government by receiving for said Government anything less than what the judgment calls for.

It is argued that the parties to a case may enter into a compromise about even a final judgment rendered by a court, and it is contended by petitioner that the reappraisal ordered by the Commissioner of Customs and sanctioned by the Department of Finance was authorized by Section 1369 of the same Code. The contention may be correct as regards private parties who are the owners of the property subject-matter of the litigation, and who are therefore free to do with what they own or what is awarded to them; as they please, even to the extent of renouncing the award, or condoning the obligation imposed by the judgment on the adverse party. Not so, however in the present case. Here, the Commissioner of Customs is not a private party and is not the owner of the money involved in the fine based on the original appraisal. He is a mere agent of the Government and acts as a trustee of the money or property in his hands or coming thereto by virtue of a favorable judgment. Unless expressly authorized by his principal or by law, he is not authorized to accept anything different from or anything less than what is adjudicated in favor of the Government.

Another view of the question is that when the Republic of the Philippines won the case in court by virtue of a final judgment, it acquired a vested right to the money represented by the fine based on the original appraisement of the jewelry in question. In the form of a fine, the President alone under Art. VII, Section 10, paragraph 6 of the Constitution can remit such fine; in the form of money or property belonging to the Government, only the Legislature by suitable enactment may dispose of it.

Moreover, the right of compromise claimed on behalf of the Commissioner under Section 1369 of the Revised Administrative Code is clearly inapplicable at this stage of the judicial proceedings. For the Government, the time for compromise is over. There no longer is any necessity or reason for its exercise. Art. 1809 of the old Civil Code and Art. 2028 of the new Civil Code define a COMPROMISE as a contract whereby the parties In Interest by giving, promising or retaining something or otherwise making reciprocal concessions, avoid a litigation or terminate one already commenced. Black's Law Dictionary on page 382 thereof says: "A compromise is an agreement between two or more persons, who, for preventing or putting an end to a lawsuit, adjust their difficulties by mutual consent in the manner which they agree on, and which every one of them prefers to the hope of gaining, balanced by the danger of losing."

Commenting on Section 1369 of the Revised Administrative Code invoked by petitioner, Gregorio Araneta in his Commentaries on the Administrative Code, Vol. II, page 1754 cite as cross reference Field Service Manual,

Bureau Int. Rev., Sec. 33, as follows:

" . . . Agents and assistants should always bear in mind the fact that compromises in sufficient amounts are preferable to prosecution. Some of the advantages are that they save the Government much trouble and expense, and do away with any delay in the settlement of the case and also with the possibility of the case being lost by the Government and the offender escaping without penalty. These advantages of compromise over prosecution are particularly apparent, since considerable difficulty is very frequently experienced in cases of prosecution, and defendants in such cases often appeal them to the higher courts, thus causing not only delay in the settlement, but also expense which is avoidable in the case of a compromise. . . The intent of the law herein mentioned finds justification in the definition itself of the term compromise. 'A compromise is an agreement between two or more persons, who, to avoid a lawsuit, amicably settle their differences on such terms as they can agree upon.' "

In other words, compromise is resorted to to avoid a litigation or to end a suit already instituted. It contemplates mutual concessions and mutual gains to avoid expense and trouble of litigation or, when litigation has already been begun, to end it because of the uncertainty of the result thereof. Here, as far as the Republic is concerned, the period for compromise has definitely ended. The original controversy about the legality of the seizure of the Jewelry, the Imposition of the fine treble the appraised value of P23,736 has not only been taken to court, but it has been finally decided by the highest Tribunal. Whatever expense caused to the Government as a result of the suit in court, Including the appeal will be reimbursed to it, because of the adjudication of costs in its favor. There is no longer any uncertainty as to the result of the litigation because the Government has definitely and finally won It. In other words, there is nothing more to compromise. By the attempted so-called compromise in the form of reappraisal, the Government had nothing to gain but much to lose in the form of several thousand pesos. Therefore, why the compromise, even supposing that it were allowed by law, which it is not?

In the case of Matsui Sawhatsu & Mori vs. Hammond, 55 Phil. 909, this Court has held that Section 1369 of the Revised Administrative Code "refers to cases pending, i.e., to cases not finally decided." The original case which motivated the present petition for certiorari, numbered Identification No. 555 in the Bureau of Customs, docketed as Civil Case No. 4450 in the Court of First Instance and docketed as G. R. No. L-3281, in this Court, is no longer pending either in the Courts or in the Bureau of Customs. The case had long ago been taken away from the Bureau and the hands of the Commissioner of Customs when it was appealed to the Courts. It is therefore clear that Section 1369 of the Revised Administrative Code is not applicable here.

Counsel for petitioner argues that if under Section 1369, the Commissioner of Customs may refund money erroneously or illegally received, or fines imposed without authority, that is to say, money already in the Treasury of the Philippines, with more reason may he compromise a judgment not yet executed. The argument is not flawless. Section 1369 refers to money erroneously or illegally received, or fines imposed without authority. In the present case, there is no money erroneously or illegally received. A fine was imposed, yes, but it was pursuant to law and presumably with authority. That very question of the authority of the Commissioner to seize the jewelry and impose the fine in lieu of forfeiture, was taken on appeal to the Courts which finally decided that the fine was legal and authorized. Then he cites the case of U. S. vs. Morris, 10 Wheat. 246, wherein the U. S. Supreme Court held that the Secretary of the Treasury may remit fines and forfeitures before or after a final sentence of condemnation or judgment for the penalty. On the strength of said case counsel presumably presses his contention that the Secretary of Finance of the Republic by approving the reappraisal was indirectly remitting or reducing the fine based on the original appraisal. We have examined the Morris case and found it inapplicable. Among other reasons, in that case the Federal Supreme Court found that the Secretary of the Treasury under the Remission Act of the 3rd of March 1797, c. 361 (LVII), had authority to remit a forfeiture or penalty accruing under the revenue law, at any time, before or after a final sentence of condemnation or judgment for the penalty.

In this jurisdiction, we are not aware of any such authority lodged either in the Secretary of Finance or the Commissioner of Customs.

It is insinuated that the original appraisement of the jewelry in the amount of P23,736 is not final because it was not in issue in the case decided by the court, and because Rovero considered it immaterial, never questioned the amount of said appraisal. That contention cannot be accepted. That the amount of the appraisal was material from the beginning, is to us obvious. The fine imposed on Rovero for the fraudulent importation of jewelry was based on this same appraisal. Naturally, If he lost the case as he did, the fine based on said appraisal will have to be paid by him. But even if he won the case, said original appraisal was still material because he would have to pay the ordinary customs duties on said jewelry just the same based on the original appraisement. He cannot ignore the fact that every merchandise, even if regularly and lawfully imported has to be appraised, the duty payable thereon being based and dependent upon the appraisal. So, the claim is not correct that the original appraisal was not material.

Furthermore, regardless of the final decision of the court, which as already stated, definitely decided the validity of the original appraisal, it would seem that the original appraisal had become final. Rovero never filed a protest questioning the propriety and correctness of the amount thereof. As the Solicitor-General well observes, Rovero had about four years within which to question and protest said appraisement. Even without considering this unusual length of time, when by Rovero's appeal from the decision of the Commissioner of Customs the administrative proceedings were transferred to the Court of First Instance, the authority of the Commissioner of Customs to order the reappraisal even assuming that a protest had been made for that purpose, ended and until modified by the courts, said original appraisal must stand as final.

In the course of the court's deliberations over this case, the possibility of fraud, even connivance on the part of Customs officials, was mentioned. To some members the proceedings leading to the reappraisal were not free from suspicion, what with the seeming haste with which the reappraisal requested by Rovero was considered, recommended and then as it were rushed to the Department of Finance for approval; the readiness, and conformity of said officials to compromise a final judgment by the highest Court of the land in favor of the Government, when by such compromise the Government had nothing to gain but much to lose, and the approval by said officials of the relatively small amount of the reappraisal which is less than one-half of the original appraisal, which as already stated, Rovero himself never questioned or protested for about four years. But, that is neither here nor there; that question is not involved in the present case and we shall assume that everything as far as the Customs officials are concerned, is above board, only that they misinterpreted the law and overestimated their authority.

In conclusion we hold that: (1) when the Commissioner of Customs or his subordinate orders the seizure of goods fraudulently brought in or imported, have them appraised and then in lieu of forfeiture imposes on the importer a fine based on said appraisal, and the importer appeals from that decision to the Court of First Instance, the amount of appraisal is necessarily involved and is in issue in the appeal, tho not touched upon in the pleadings, for the reason that if the decision appealed from is affirmed, the action of the Commissioner in making the seizure and imposing the fine, including its amount, is given legal sanction, and the sanction necessarily extends to and covers the amount of appraisal on which the fine is based; (2) once the court decision becomes final, neither the Secretary of Finance nor the Commissioner of Customs may have the goods reappraised for the purpose of reducing the amount of the fine; (3) said officials, under the law have no authority to remit fines or forfeitures after the courts, on appeal and in final decisions have sanctioned said fines or forfeitures; (4) the jurisdiction of Customs officials over administrative cases involving seizures, appraisals, forfeitures, and fines imposed, ends with the appeal of their decisions to the courts, and the final judgments of said courts; thereafter, the remaining

function of said officials is to carry out the terms of said final court decisions, and in so doing, naturally guarding and protecting the interests of the Government they represent; (5) the power of the Commissioner of Customs under Section 1369 of the Revised Administrative Code, to compromise any case or proceeding arising under the customs laws, refers only to cases pending in his department, it cannot refer to cases appealed to the courts and finally decided by them; and (6) the supervision and control over Judicial proceedings given by Section 1368 of the Revised Administrative Code to the Commissioner of Customs, does not extend to modifying final decisions of the Court, in the sense that he may accept on behalf of the Government anything different or less than what is awarded to said Government in the decision.

In view of all the foregoing, the motion for reconsideration is denied.

Paras, C.J., Feria, Pablo, Bengzon, Bautista Angelo, and Labrador, JJ., concur.

Tuason, J., reserves his vote.

Padilla, Reyes, and Jugo, JJ., took no part.

* 89 Phil. 333.

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