

THE REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. 259 PIECES OF JEWELRY (TRANQUILINO ROVERO, CLAIMANT) DEFENDANT AND APPELLANT.

G. R. No. L-3281. June 28, 1951

Ponente: PARAS, C.J.

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PARAS, C.J.:

On April 25, 1947, Tranquilino Rovero, coming in a PAL plane from Bangkok, arrived at the Manila International Airport in Makati, Rizal, in the evening. In his baggage declaration and entry, Rovero listed eight pieces of baggage including a Chinese Vase valued at fifteen pesos. He was able to carry away part of his baggage after being examined by inspector Eufemio Pablo and after paying the necessary duties and other legal charges. The rest of Rovero's baggage, including the Chinese vase, were to be examined the next day. On April 26, 1947, in the morning, James H. Keefe (chief of the Customs Secret Service Division) went to the parcel section of the Bureau of Customs and, heeding suspicions of his agents that the Chinese vase contained some concealed articles in view of its unusually thick bottom, then and there decided to crack open said vase. This operation led to the discovery of a tin can ingeniously hidden in the false bottom of the vase containing 259 jewels appraised at P23/736. Rovero did not learn of this discovery until April 28, 1947, when he returned to the Bureau of Customs. Because of Rovero's failure to declare the jewels, the Collector of Customs rendered a decision against him, the dispositive part of which reads as follows:

"In the light of the foregoing, this Office believes and so holds that the 259 pieces of jewelry, subject matter of this seizure proceeding, have been properly seized under Section 1292 of the Revised Administrative Code and are subject to forfeiture under Section 1363 (m-2) of the same Code. However, pursuant to the provisions of Section 1365 of the Revised Administrative Code, forfeiture is hereby waived and, in lieu thereof, a fine in an amount equal to three times the appraised value of the jewelry is hereby imposed. The jewelry may, therefore, be delivered to Tranquilino Rovero upon payment of the legal duties, compensating tax and other charges due thereon, plus the fine. Upon claimant's failure to take delivery of the articles, and after this decision has become final, the jewelry shall be sold at public auction in accordance with law for the satisfaction of the Government's claim as herein determined."

Upon petition for review filed by Tranquilino Rovero, the Court of First Instance of Manila affirmed the decision of the Collector of Customs. The case is now before us upon appeal by Rovero.

Section 1292 of the Revised Administrative Code provides that "whenever any article subject to duty is found in the baggage of any person arriving within the Philippines, which was not at the time for making entry of such baggage mentioned to the collector or other proper customs official before whom such entry was made by the person making entry, such article shall be seized, and the person in whose baggage it is found may be required to pay treble the value of such article unless it shall be established to the satisfaction of the collector that the failure to mention or declare was without fraud." Appellant argues, citing American decisions, that "though goods are brought in with intent to smuggle them, they may not be seized while the persons importing them may yet change

their minds and observe the necessary formalities in due season" (United States vs. One Pearl Chain, 139 Fed. 513); "if at any time while entry is being made, and before it is completed, there is a disclosure by the passenger which is sufficient to put the customs officer upon inquiry as to the dutiable character of any of the contents of the packages, * * * it is to be deemed that the articles were 'mentioned to the collector before whom such entry was made', notwithstanding they were not mentioned in the documents" (Dodge vs. United States, 131 Fed. 849); and "the offense of smuggling or clandestine introduction of goods into the United States in violation of law does not include mere attempts to commit the same, and is not committed by the concealment of goods on a ship entering the waters of the United States, with intent to smuggle them, where the goods are not taken through the lines of customs authorities, but are delivered to the customs officer on board the vessel itself at the time when or before the obligation to make entry and pay the duties arises" (Heck vs. United States, 172 U. S. 549, 19 Sup. Ct. 254, 43, L. ed. 505). These authorities are clearly not in support of appellant's case, because they hold in effect that proper disclosure must be seasonably made.

It is not pretended that appellant's omission to declare was due to inadvertence or ignorance, and his only explanation is that he was afraid that he might be held up on his way from the airport to his Manila residence if he took with him the jewels on the night of his arrival. This excuse is neither plausible nor convincing. He could have avoided the alleged contingency by disclosing to the customs authorities the existence of the jewels and merely requesting the postponement of the inspection and delivery of his baggage until such time as was convenient to him. Moreover, according to appellant, he was able to raise the necessary amount to pay the customs duties, compensating tax and other legal charges on his jewels only on April 26, 1947, with the result that, even if he declared said articles on the night of his arrival at the airport, he must have known that he would not be able to pay the duties and other legal charges and, accordingly, would not bring the jewels home. Upon the other hand, the appellant did not return to the Bureau of Customs until April 28, 1947, when he could, if he acted in good faith, return sooner and declare the jewels, since the disclosure could be made even if he was not yet ready to pay the corresponding duties.

Appellant claims that, under section 1321 of the Revised Administrative Code, he could have impliedly abandoned the vase without any liability. Section 1321 is inapplicable, because it refers to abandonment of imported merchandise, declared in an invoice.

It is also contended by the appellant, invoking sections 1363 (m-2), 1365, 1366 and 1388 of the Revised Administrative Code, that the Collector of Customs cannot impose a fine greater than the appraised value of the seized article.

This contention cannot prosper, since appellant's case is specifically covered by section 1292 which plainly authorizes the collector to require the payment of treble the value of the seized article, unless the failure to declare is without fraud.

Lastly, there is no merit in the proposition that section 1292 is repugnant to the constitutional provision that excessive fines shall not be imposed, and that the appellant has been placed in double jeopardy by reason of the case at bar, because he had already been convicted and fined under section 2703 of the Revised Administrative Code for the same violation. It is sufficient to point out that this is a civil proceeding to enforce the collection of a surcharge due on an imported article, quite distinct from appellant's criminal liability for his failure to declare said article.

Wherefore, the appealed judgment is affirmed, with costs against the appellant. So ordered.

Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor Reyes and Jugo, JJ., concur.

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