

THE SECRETARY OF FINANCE, HON. CESAR VIRATA; THE TARIFF COMMISSIONER, HON. RAZON P. HARESCO; AND THE COLLECTOR OF CUSTOMS, HON. AUGUSTO T. AFRICA, PETITIONERS VS. THE HON. ENRIQ...

G.R. No. L-36276. January 17, 1975

Ponente: FERNANDO, J.

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FERNANDO, J.:

What is sought to be set aside in this certiorari proceeding by the Secretary of Finance is a mandatory preliminary injunction issued by respondent Judge Enrique Agana of the Court of First Instance of Rizal, ordering him as well as the other petitioners, Tariff Commissioner Razon P. Haresco and Collector of Customs Augusto T. Africa, to immediately release the importation of private respondent[1] of 10,760 feet of steel pipes or casings without paying the anti-dumping duties as ordered by the aforesaid Secretary in Dumping Case No. 70-3. Such order, it is alleged, was granted without due process being observed, the Solicitor General as their counsel not having been notified. It is assailed on an even more fundamental ground, namely the lack of jurisdiction of respondent Judge, the appropriate forum being the Court of Tax Appeals. That for petitioners is the decisive issue. It is understandable why. The Court of Tax Appeals was created in 1954[2] under the constitutional power of then Congress to establish inferior courts as well as to define and prescribe their jurisdiction.[3] Since the 1955 decision in *Millarez vs. Amparo*[4] up to *Pacis vs. Geronimo*[5] decided in April of last year, this Court has uniformly and consistently upheld and implemented the clear legislative policy to divest the ordinary tribunals of their jurisdiction to pass over questions involving financial matters dealing with internal revenue taxes and customs duties.[6] It would appear therefore that the lower court, as contended by petitioners, was not sufficiently mindful of the controlling doctrines when it issued the order complained of. The petition is clearly impressed with merit.

The facts are undisputed. In the sala of respondent Judge of the Court of First Instance of Rizal, Quezon City Branch, private respondent Shamrock Well-Drilling Enterprises, Inc. filed a suit on November 20, 1972 for certiorari, prohibition and mandamus against now petitioners Secretary of Finance, the Tariff Commissioner and the Collector of Customs. It alleged that on March 7, 1972, the Secretary of Finance rendered a decision in Dumping Case No. 70-3, the dispositive portion of which was worded thus: "[Wherefore], taking into consideration all the foregoing, it having been established by sufficient evidence on record that welded or seamless iron or steel pipes and tubes with a specification of 4 inches to 48 inches in outside diameter and with wall thickness of 1.6 mm., to 12.7., are being imported from Japan at prices less than its fair value, to the injury of the local industry, it is hereby ordered that a dumping duty in the amount of \$63.00 per metric ton, be levied, collected and paid on all importations of pipes and tubes with the aforequoted specifications and origin, pending release and/or released from Customs' custody under bond pending determination of this dumping protest, and on all subsequent importations of the same commodity arriving under similar circumstances pursuant to Section 301(1) of the Tariff and Customs Code." [7] There was a motion for reconsideration which was followed by a

request for the delivery of the aforesaid shipments under bond.[8] The request for delivery of the pipes under bond was denied by the Secretary of Finance, who informed private respondent that its importation could be withdrawn "only upon payment of the existing dumping duty in addition to the regular duties and taxes thereon." [9] Private respondent likewise failed to secure the release thereof, this time alleging that it was not heard in connection with Dumping Case No. 70-3.[10] It is clear therefore that the Collector of Customs, one of the petitioners now, refused to release the goods unless the payment of the regular customs duties plus the anti-dumping charges be made. It was at that stage that the matter was taken to the court of first instance as if on appeal. Private respondent thus sought to annul the order of petitioner Secretary of Finance as far as it was concerned and likewise to have a writ of mandatory preliminary injunction issued. Then on January 3, 1973 came the order of respondent Judge, with this dispositive portion: "[Wherefore], in the interest of justice and equity, the application for issuance of preliminary writ of mandatory injunction is hereby [granted] pending further proceedings in this case, and upon the filing of injunction bond in the amount of P60,000.00, let said writ issue in favor of the petitioner commanding the herein respondents to immediately release petitioner's importation of 10,760 feet of steel pipes or casings from the piers." [11] There was a motion for reconsideration dated January 10, 1973 filed by the present petitioners where both the due process and the jurisdictional questions were raised.[12] It was denied by respondent Judge in an order of January 25.[13] The writ of preliminary mandatory injunction was issued on the same day. The petition for certiorari was filed with this Court on February 9, 1973.[14] Six days thereafter, this resolution came down: "The respondents are hereby required to file an [answer] to the petition for certiorari with preliminary injunction within ten (10) days from notice hereof and not to move to dismiss the petition. Effective immediately and until further orders from this Court, let [preliminary injunction] issue." [15] An answer was filed by respondents on March 21, 1973. In another resolution of March 27, 1973, the parties were required to submit their written memoranda in lieu of oral argument. That they did, the memorandum for respondents being filed on May 5 and that for petitioners on May 10, respectively, of 1973.

It is clear from the above facts that private respondent was averse to paying the anti-dumping duties as ordered by the Secretary of Finance. The validity thereof could of course be challenged. Private respondent was within its right in doing so. The basic issue though is whether it ought to have filed a suit of that character in a court of first instance as it did or in the Court of Tax Appeals as contended by petitioners. Considering that the controversy involved the payment of duties, based on an interpretation of a pertinent provision of the Customs and Tariff Code with the Collector of Customs as a necessary party, the appropriate forum appears to be the Court of Tax Appeals. So at the outset we have indicated. That is why this petition should prosper.

1. It was by virtue of a constitutional grant of authority, as noted, that the Congress of the Philippines created the Court of Tax Appeals and defined its jurisdiction. If there is anything that is clear from such an enactment, it is the legislative determination to vest sole and exclusive jurisdiction on matters involving internal revenue and customs duties to such a specialized court. It is, as noted in *Ursal*, [16] "a part of the judicial system." A matter elevated to it on appeal, as held in *Lopez and Sons*, [17] is "manifestly judicial." Thus it may issue writs of injunction.[18] So the legislative will was made manifest. It must be respected. This Court has done so with the utmost fidelity in at least thirty-four decisions previously referred to, in a period covering 1955, just one year after the creation of the Court of Tax Appeals, to the present. That is as it should be. Any other approach would frustrate the purpose of the law. It would, to follow the picturesque language of Justice Montemayor, in *Ledesma vs. Court of Tax Appeals*, [19] rob Republic Act No. 1125, creating the Court of Tax Appeals, of its principal objectives. That undesirable eventuality is to be avoided. That would be to ignore or disregard a cardinal postulate of statutory interpretation. This Court has not done so before. There is no reason why it should start now.

On a particularized level, this Court did make clear that whatever may be incidental to the legality of an assessment, and the explicit determination of the Secretary of Finance that private respondent is liable for

anti-dumping duties is not dissimilar, is for the Court of Tax Appeals.[20] It has jurisdiction over distraint and levy.[21] So it is even if "the complaint [were] essentially for collection of damages." [22] The then Justice, thereafter Chief Justice, Concepcion, in *Rodriguez vs. Blaquera*, [23] noted that a case where there was no prayer for reimbursement in the suit filed, what was sought being only the nullification of a circular of the Commissioner of Internal Revenue, was still for the Court of Tax Appeals to pass upon. A suit for replevin could not deprive it either of its competence to act.[24] A similar answer is called for notwithstanding a showing that the claim for refund alleged to have been illegally imposed and assessed had already been barred by statute.[25] Nor in appropriate cases, and this is one of them, is it divested of its jurisdiction in view "of an apparent omission or oversight." [26] Thus is met the objection of private respondent that there is no explicit reference to anti-dumping duties.

The legal obstacle that looms in its path is thus well-nigh insurmountable. It would constitute a retreat, one that is far from justifiable, if this Court were to depart from doctrines distinguished by their undeviating conformity to the applicable constitutional provision and the statutory objective. In much the same way that the creation of the Court of Industrial Relations [27] and the Court of Agrarian Relations [28] did preclude regular judicial tribunals from exercising jurisdiction over certain legal controversies, so it must be where internal revenue taxes and customs duties are concerned. It is obvious then, and for the best of reasons, that the Court of Tax Appeals is the appropriate judicial body to pass upon the validity of an order of the Secretary of Finance imposing anti-dumping duties.

2. There is this other matter. The petition, as was made mention of, was likewise based on a denial of procedural due process. As set forth therein: "Despite the fact that the Office of the Solicitor General has already entered its appearance for the petitioners in Civil Case No. Q-17141, it was not sent a copy of this Order dated December 15, 1972 setting the case for hearing on January 3, 1973. Instead, notices were sent to the petitioners themselves. In the case of the petitioner Collector of Customs notice of said Order reached his Office only on January 3, 1973 at 1:30 p.m., or after the scheduled date of hearing. In the case of petitioner Secretary of Finance, notice of said Order reached his Office only on January 2, 1973, hence, he did not even have three (3) days notice of the scheduled January 3, 1973 hearing." [29] All that was stated in the answer was to this effect: "1. Petitioners complain that the writ was issued on January 3, 1973 without their counsel being notified and without respondent court reviewing the records of the Dumping Case No. 70-3 [wherein private respondent was not notified]. As above noted, petitioners inexcusably and negligently failed to appear at the hearing of January 3 for having failed to appear on the earlier scheduled hearing which their counsel sought to postpone . . . A party moving for postponement should be in court on the day set for trial if the motion is not acted upon favorably before that day. . . ." [30] That could hardly be considered a denial. There was then no misstatement on the part of petitioners of what did in fact transpire. There was more than sufficient justification then for the objection based on procedural due process. What was held in *Shell Company of the Phil., Ltd. vs. Enage* [31] is of some relevance. Thus: "Respondent Judge failed to have counsel for petitioner Shell Company notified. What is indispensable in law was rendered nugatory in fact. For it would render such a right conspicuously futile if counsel were not given notice of the proceedings to be had. If sanction could therefore be given to what was done by respondent Judge, or, more appropriately, what he failed to do, then this guarantee, insofar as its procedural aspect is concerned, is reduced to a barren form of words. What use is an attorney of record, whose services are precisely sought so that one's interests may receive the protection to which they are entitled under the law, if he is kept ignorant as to when the hearings will be held.... One might as well say, if the respondent Judge were to be upheld, that the right to a hearing, far from being of the every essence of procedural due process, is just a useless formality. What ought to have been in the mind of the lower court is this succinct summary, from the pen of Justice J.B.L. Reyes, of the importance of the right to counsel: 'A party engages an attorney of record precisely because it does not feel

competent to deal with the intricacies of law and procedure.'..."[32] There is no need to belabor the point in view of this Court's holding on the jurisdictional issue.

3. There is to be no misinterpretation of this Court's decision. It is based on the lack of jurisdiction of the court of first instance presided by respondent Judge. It is limited to such aspect. Private respondent may thus raise any legal issue to sustain its stand that the order of the Secretary of Finance complained of is devoid of support in law. This decision is certainly no bar to whatever efforts it may exert to demonstrate its lack of liability for the anti-dumping duties, but in the appropriate tribunal. That is the Court of Tax Appeals.

WHEREFORE, the order of respondent Judge of January 3, 1973, granting the writ of mandatory preliminary injunction and his order of January 25, 1973, denying his motion for reconsideration as well as the writ of mandatory preliminary injunction issued on the same day, are nullified, set aside and declared to be of no force and effect. Respondent Judge or whoever may be acting in his stead, is hereby directed to dismiss the complaint entitled Shamrock Well-Drilling Enterprises, Inc. vs. The Secretary of Finance, Hon. Cesar Virata; The Tariff Commissioner, Hon. Razon P. Haresco; and the Collector of Customs, Hon. Augusto T. Africa, Civil Case No. Q-17141, in the Court of First Instance of Rizal, Quezon City Branch, for lack of jurisdiction. No costs.

Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Shamrock Well-Drilling Enterprises, Inc.

[2] Republic Act No. 1125.

[3] Sections 1 and 2, Article VIII, of the 1935 Constitution read as follows: "The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts,..." The present Constitution, in its Article X, Section 1, has a substantially similar provision: "The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law. The National Assembly shall have the power to define, prescribe, and appropriation the jurisdiction of the various courts, but may not deprive the Supreme Court of its jurisdiction over causes enumerated in Section five hereof."

[4] 97 Phil. 282.

[5] L-24068, April 23, 1974, 56 SCRA 583.

[6] The other cases follow: Namarco vs. Macadaeg, 98 Phil. 185 (1956); Bislig Bay Lumber Co. vs. Provincial Government of Surigao, 100 Phil. 303 (1956); Castro vs. David, 100 Phil. 454 (1956); Lopez and Sons vs. Court of Tax Appeals, 100 Phil. 850 (1957); Collector of Internal Revenue vs. Zulueta, 100 Phil. 872 (1957); Castro vs. 1 Blaquera, 100 Phil. 981 (1957); Ursal vs. Court of Tax Appeals, 101 Phil. 209 (1957); Gutierrez vs. Court of Tax Appeals, 101 Phil. 713 (1957); The Acting Collector of Customs vs. The Court of Tax Appeals, 102 Phil. 244 (1957); Ledesma vs. Court of Tax Appeals, 102 Phil. 931 (1958); Blaquera vs. Rodriguez, 103 Phil. 267 (1958); Blaquera vs. Rodriguez, 103 Phil. 335 (1958); Blaquera vs. Rodriguez, 103 Phil. 511 (1958); Hoa Hin Co., Inc. vs. Collectors of Internal Revenue, 105 Phil. 783 (1959); Gibbs vs. Collector of Internal Revenue, 107 Phil. 232 (1960); Rodriguez vs. Blaquera, 109 Phil. 598 (1960); Republic vs. Dy Chay, 111 Phil. 592 (1961); Gancayco vs. Collector of Internal Revenue, 111 Phil. 598 (1961); Republic vs. Uy, 111 Phil. 913 (1961); San Juan vs. Vasquez, 113 Phil. 85 (1961); Commissioner of Internal Revenue vs. Western Pacific Corporation, L-18804, May 27, 1965, 14 SCRA 105; Morales vs. Collector of Internal Revenue, L-16759, Aug. 31, 1966, 17 SCRA 1018; Pacis vs. Averia, L-22526, Nov. 29, 1966, 18 SCRA 907; De Joya vs. Lantin, L-24037, April 27, 1967, 19 SCRA 893; Romualdez vs. Arca, L-20516, Nov. 15, 1967, 21 SCRA 856; Papa vs. Mago, L-27360, Feb. 28, 1968, 22

SCRA 857; Diosamito vs. Balanque, L-30734, July 28, 1969, 28 SCRA 836; Ponce Enrile vs. Vinuya, L-29043, Jan. 30, 1971, 37 SCRA 381; Luna vs. Pacis, L-24237, March 31, 1971, 38 SCRA 189; Senenes vs. Frias, L-32921, June 10, 1971, 39 SCRA 533; Geotina vs. Court of Tax Appeals, L-33500, Aug. 30, 1971, 40 SCRA 362; Collector of Customs vs. Torres, L-22977, May 31, 1972, 45 SCRA 272.

[7] Petition of private respondent, Annex A to certiorari suit before this Court, par. 5.

[8] Ibid, pars. 6 and 8.

[9] Ibid, par. 9.

[10] Ibid, pars. 10-11.

[11] Order of respondent Judge dated January 3, 1973.

[12] Annex E of Petition.

[13] Annex F of Petition.

[14] Petition for Certiorari and Preliminary Injunction.

[15] Resolution of this Court dated February 15, 1973.

[16] Cf. Ursal vs. Court of Tax Appeals, 101 Phil. 209 (1957).

[17] Cf. Lopez and Sons vs. Court of Tax Appeals, 100 Phil. 850 (1957).

[18] Cf. Castro vs. Blaquera, 100 Phil. 981 (1957).

[19] 102 Phil. 931 (1958).

[20] Cf. Castro vs. David, 100 Phil. 454 (1956).

[21] Cf. Collector of Internal Revenue vs. Zulueta, 100 Phil. 872 (1957);

[22] Cf. Blaquera vs. Hon. Rodriguez, 103 Phil. 267 (1958);

[23] 109 Phil. 598 (1960).

[24] Cf. Pacis vs. Averia, L-22526, Nov. 29, 1966, 18 SCRA 907; Diosamito vs. Balanque, L-30734, July 28, 1969, 28 SCRA 836; Ponce Enrile vs. Vinuya, L-29043, Jan. 30, 1971, 37 SCRA 381.

[25] Cf. Hoa Hin Co., Inc. vs. Collectors of Internal Revenue, 105 Phil. 783 (1959).

[26] Cf. Bislig Bay Lumber Co., Inc. vs. Provincial Government of Surigao, 100 Phil. 303 (1956).

[27] Chan Bros., Inc. vs. Federacion Obrera, L-34761, Jan. 17, 1974, 55 SCRA 99 is the latest case in point. Reference to the leading case of Ang Tibay vs. Court, 69 Phil. 635 (1940) is likewise appropriate.

[28] The latest decision in point, Ferrer vs. Villamor, L-33293, Sept. 30, 1974, could trace the doctrine of exclusive jurisdiction of this specialized court to Infante vs. Javier, 84 Phil. 614, a 1949 decision.

[29] Decision, par. 5.

[30] Answer of Respondents under the heading Full hearing not required for the issuance of the writ.

[31] L-30111-12, February 27, 1973, 49 SCRA 416.

[32] Ibid, 422-423.

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