

LA PERLA CIGAR & CIGARETTE FACTORY, ASSANDAS, BATAAN CIGAR & CIGARETTE FACTORY, LA SUERTE CIGAR & CIGARETTE FACTORY, LA PERLA CIGAR & CIGARETTE MFG. CO., LA DICHA LA PAZ Y BUENV...

G.R. Nos. L-27948 & L-28001-11. July 31, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

The grievance complained of by the twelve petitioners against a single decision rendered by the Court of Tax Appeals, now sought to be reviewed, had its roots in a failure of the then Collector of Customs, Isidro C. Ang-angco, in the protest proceedings then pending before him, to give force and effectivity to the applicable provisions of the Laurel-Langley Agreement and Executive Order No. 150 of the late President Magsaysay. Later, Acting Collector of Customs Pedro Pacis, now respondent, took his place. True to what the Constitution enjoins and with full awareness of what is incumbent on executive officials, he remedied such a flagrant omission. He did not feel bound by what was done by his predecessor. He granted a motion for reconsideration; nor was he taken in by the plea that what was ordered by former Collector Ang-angco was executory in character.

Respondent Commissioner of Customs upheld respondent Pacis. The Court of Tax Appeals viewed the matter similarly. Hence this petition for review. We sustain the Court of Tax Appeals.

In the stipulation of facts before the Court of Tax Appeals, appearing in the brief for petitioners, it was stated that the above petitioners filed their respective protests with the then Collector of Customs Ang-angco, not only against the collection of the 25% of the ordinary customs duties on imported United States articles in accordance with the tariff provisions of the Laurel-Langley Agreement but also against the collection of the incremental duty of 30% imposed under the aforesaid Executive Order of the late President Magsaysay, it being their contention that they were liable only under Section 12 of the Tariff Act of 1909 as amended.[1] Only two protests were heard by the then Collector Ang-angco, but his decision of October 15, 1959 was made applicable to all petitioners. He sustained their stand therein, thus resulting in a disregard of both the Laurel-Langley Agreement and the Executive Order No. 150 of the late President Magsaysay. It was not until February 12, 1960 that petitioner's were so notified of the above.[2]

There was, on the part of petitioners, a motion for the immediate execution of what was ordered by Collector Ang-angco, but respondent Pacis, who in the meanwhile had assumed office, issued an order dated March 7, 1960 declaring what was done by his predecessor as null and void.[3] There was likewise filed on February 17, 1960 with respondent Pacis a consolidated motion for reconsideration of the aforesaid Ang-angco decision on the part of the government, which motion for reconsideration was favorably acted upon by respondent Pacis on the very same day. Nor did he budge from such a position notwithstanding the efforts on the part of petitioners to have him change his stand.[4]

Then came on April 6, 1960 a notice of appeal to respondent Commissioner of Customs, followed on November

17 of the same year with a reiteration on the part of petitioners of their motion for immediate execution of the original Ang-angco decision. A hearing was held on such urgent motion on November 23, 1960.[5] The action of respondent Commissioner of Customs was adverse to the claim of petitioners.[6] After respondent Commissioner of Customs denied the motion for reconsideration, the matter was taken up before the Court of Tax Appeals with petitioners suffering the same fate. Hence, this petition for review.[7]

It would serve the cause of clarity if the Ang-angco decision of October 15, 1959 and the grounds therefor were set forth in some detail. Thus: "From the foregoing considerations, it is the considered opinion of this Office that the tariff provisions of the Langley-Laurel Agreement, embodied in Paragraph 1, Article I, thereof, are [not] executory in character and were not legally enforceable as tariff laws of the Philippines, *ex proprio vigore*, even after the proclamation of the said Agreement; and that they require legislative implementation, through the enactment of the corresponding tariff laws, before the rates provided therein may be made to govern the tariff treatment of United States articles imported into the Philippines."7a Then he went on to state to pose this query: "If, as demonstrated hereinabove, the collection of customs duty on the United States articles involved here was illegal, the next question that calls for resolution is, which tariff law, if any, should have been applied to the said articles."7b

Thus did Commonwealth Act No. 133 come into the picture: "The last law containing a tariff provision enacted by the Congress of the Philippines under the government of the Commonwealth of the Philippines is Commonwealth Act No. 733, which was also for the purpose of accepting the Bell Trade Agreement; authorizing the President to enter into the said Agreement; and provided for penalties for violation of the provisions of the Philippines Rehabilitation Act of 1946, Public Law 370-79th Congress of the United States. The aforementioned tariff provisions of Commonwealth Act No. 733 which were enacted to implement the tariff provisions of Parts 2, 3, 4, and 5, of Title III, of Public Law 371-79th Congress, provided for a graduated schedule of rates of customs duty that was designed to govern the tariff treatment of United States articles imported into the Philippines from July 4, 1954 to July 3, 1974. However, before the said tariff rates could be applied, the Bell Trade Agreement was revised by the Langley-Laurel Agreement, but, as stated hereinabove, it was only on July 1, 1957, that our Congress was able to enact Section 207 of Republic Act No. 1937, which implemented the tariff provisions of the Langley-Laurel Agreement embodied in Paragraph 1, Article I, thereof."7c

Commonwealth Act No. 133, he would however consider unconstitutional for embracing more than one subject. Thus: "Having demonstrated that the matter or things that constitute the groundwork of Commonwealth Act No. 733 are those that are embodied in the Bell Trade Agreement, which, in turn, refer to the subject of trade relations between the United States and the Philippines, treated in the Philippine Tariff Act of 1946; and the subject of payment of compensation for war damages, treated in the Philippine Rehabilitation Act of 1946; it necessarily follows that the enactment of Commonwealth Act No. 733, which embraces the aforementioned subjects that are alien to each other, was in violation of Section 21-(1), Article VI, of our Constitution; consequently, the said Act is null and void."7d

From which this conclusion followed: "Having demonstrated that Commonwealth Act No. 733 is null and void for being unconstitutional, it necessarily follows that the intention of Congress to amend Section 12 of the Philippine Tariff Act of 1909, as amended, was not legally effected, consequently, Section 12, of the Philippine Tariff Act of 1909, as amended, was left in full force and effect to govern the tariff treatment of United States articles imported into the Philippines, which is the duty of this Office to enforce, as required by the mandatory provisions of Section 1280 of the Revised Administrative Code; until our Congress enacted Section 207 of Republic Act No. 1937, which effectively implemented the tariff provisions of the Langley-Laurel Agreement that are embodied in Paragraph 1, Article I, thereof, thereby amending Section 12 of the Philippine Tariff Act of 1909

as amended, which, as stated hereinabove, took effect only on July 1, 1957, long after the United States articles involved here were imported into the Philippines in 1956."^{7e}

To repeat, the Court of Tax Appeals decided correctly the matter before it. There is nothing in this petition for review sought to be reinforced by a voluminous petitioners' brief that would call for a contrary conclusion.

1. According to the Laurel-Langley Agreement concluded on September 6, 1955: "The ordinary customs duty to be collected on United States articles as defined in Subparagraph (e) of Paragraph 1 of the Protocol, which during the following portions of the period from January 1, 1956, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse, in the Philippines for consumption, shall be determined by applying the following percentages of the Philippines duty as defined in Subparagraph (h) of Paragraph 1 of the Protocol: (a) During the period from January 1, 1956, to December 31, 1958, both dates inclusive, twenty-five per centum."⁸ The Executive Order of the late President Magsaysay of December 31, 1955 provides: "All articles dutiable under the Philippine Tariff Act of 1909, as amended, not specifically included in the foregoing list shall pay, in addition to the existing rates of import duty thereon, an incremental duty amounting to thirty (30) per centum of such rates."⁹

Was it within the power of the then Collector Ang-angco to refuse to collect the duties that must be paid? That is the crucial point of inquiry. We hold that it was not.

Precisely, he had to give the above legal provisions, quite explicit in character, force and effect. His obligation was to collect the revenue for the government in accordance with existing legal provisions, executive agreements and executive orders certainly not excluded. He would not be living up to his official designation if he were permitted to act otherwise. He was not named Collector of Customs for nothing. He was entrusted with both the delicate and vital function of increasing the sum total of the country's revenues in accordance with existing laws, not to reduce them by not collecting what was therein imposed.

The enormity of his omission to apply the Laurel-Langley Agreement and Executive Order No. 150 becomes more apparent when one bears in mind that under the Constitution the President himself, in whom the totality of executive power is vested, has the obligation to take care that the laws be faithfully executed.¹⁰ As was stated by us in *Philippine National Bank v. Bitulok Sawmill Inc.*:¹¹ "There may be a discretion as to what a particular legal provision requires; there can be none what-soever as to the enforcement and application thereof once its meaning has been ascertained. What it decrees must be followed; what it commands must be obeyed. It must be respected, the wishes of the President to the contrary notwithstanding, even if impelled by the most worthy of motives and the most persuasive equitable considerations." Equally relevant is this statement from the opinion there rendered: "It is a well-settled principle that with all the vast powers lodged in the Executive, he is still devoid of the prerogative of suspending the operation of any statute or any of its terms."

There was no justification then for what the then Collector Ang-angco did. Certainly, if the President himself were called upon to execute the laws faithfully, a Collector of Customs, himself a subordinate executive official, cannot be considered as exempt in any wise from such an obligation of fealty. Similarly, if the President cannot suspend the operation of any law, it would be presumptuous in the extreme for one in the position of then Collector Ang-angco to consider himself as possessed of such a prerogative. Nevertheless, that was precisely what happened. Nor could such a failure to apply what the Laurel-Langley Agreement and Executive Order No. 150 provided be justified by the plea that no statute was transgressed. What must be faithfully executed are the laws, a term broad enough to include treaties, executive agree-ments and executive orders. Unless and until annulled by the courts, they must with fidelity be executed by the officials concerned.

2. It was not error then for the Court of Tax Appeals to refuse to accord validity to the action taken by former Collector of Customs Ang-angco on the protest cases involved in this petition. Neither was it mistaken when it

failed to consider his decisions on such protest cases as "effective immediately." That would dispose of the eighth and ninth assigned errors in the brief for petitioners.

There is an assertion likewise as set forth in an earlier assignment of error, the fourth, that the Court of Tax Appeals should not have confirmed the finding of the respondent Commissioner of Customs to the effect that former Collector of Customs Ang-angco ruled that the Laurel-Langley Agreement is invalid. Petitioners would contend in their brief that there was no such finding of nullity, only of unenforceability.

Even if it is admitted that there is a lack of terminological precision, still the error, if error it was, is non-prejudicial and certainly would not suffice for a reversal of the Court of Tax Appeals decision now under review. It is immaterial whether or not the ruling on the Laurel-Langley Agreement be one of its not being "enforceable" or of its being a nullity. The result would be the same. There would be a failure to accord deference to what the Constitution enjoins on all executive officials barring none, namely the faithful execution of the laws. Considering further that there is likewise a presumption of validity which must stand in the absence of a valid judicial decree, former Collector Ang-angco was remiss in an obligation incumbent upon him. It would follow then that a minor inaccuracy in the characterization of the ruling rendered by the Court of Tax Appeals certainly would not be attended by consequences fatal in character. For as shown above, there could be no dispute as to the nullity of the action taken by former Collector Ang-angco.

3. The fifth alleged error has a tendency to mislead. It would complain against the Court of Tax Appeals for holding that respondent Acting Collector Pacis was authorized to review and reverse *motu proprio* the decisions promulgated by his predecessor, former Collector Ang-angco. Accuracy requires that what was held by the Court of Tax Appeals, be set forth. Thus: "We are, therefore, of the opinion that the decisions of former Collector Ang-angco in sustaining the protests of petitioners and authorizing the refund of the customs and incremental duties collected on their importations did not become final and effective immediately. Consequently, his successor Collector Pacis acted with lawful authority in (1) taking cognizance of the motion for reconsideration filed by the Office of the Solicitor General, (2) rendering a decision on reconsideration setting aside the decisions of his predecessor which were sought to be reconsidered, and (3) denying the motion for the immediate execution of the said decisions."

Petitioners, considering their choice of phraseology in this particular assignment of error, must have realized that the above precise holding of the Court of Tax Appeals cannot successfully be impugned. Respondent Acting Collector Pacis could grant the motion for the reconsideration of Collector Ang-angco's ruling and could deny the plea on the part of petitioners to accord to it the character of finality. Precisely, the error would have been committed had respondent Acting Collector Pacis acted otherwise. The law is clear, his duty is plain. He followed what was required of him. That was to live up to its mandate.

He would have been recreant to the trust reposed in him, if for any one reason he failed to grant such a motion for re-consideration and considered as executory the ruling of former Collector Ang-angco, which did suffer from congenital infirmity and ran counter to what the Constitution enjoins. We would not be justified then, considering the circumstances disclosed, to stamp with a stigma of error the steps taken by respondent Acting Collector. Nor can we go along with petitioners in their harsh but unjustified characterization of the procedure followed by him, when asked to pass upon the motion for the reconsideration of the orders of former Collector Ang-angco, the subject of the first two errors assigned, which we find to be devoid of merit.

4. Petitioners would likewise impress on us that the Court of Tax Appeals should not have held as valid the action taken by the respondent Commissioner of Customs. That is the burden of their sixth and seventh assigned errors, a burden which as in the case of the other alleged errors was not successfully met.

According to the decision now on appeal: "It follows that the respondent Commissioner of Customs also acted

within the scope of his power when he (1) rendered a joint decision on the merits in Customs Cases Nos. 173 and 174 (formerly Protests Nos. 159 and 160 and now C.T.A. Cases Nos. 1225 and 1226), holding among others, that former Collector Ang-angco had no authority to declare the Laurel-Langley Agreement invalid and unconstitutional, and to render Executive Order No. 150 of the late President Magsaysay inoperative; (2) rendered no decision on the merits on the protest cases covered by C.T.A. Cases Nos. 1227 to 1236, for the reason, among others, that former Collector Ang-angco did not conduct hearings, nor require the presentation on the records of the corresponding customs entries covering the different importations; (3) promulgated interlocutory resolutions in said protest cases covered in C.T.A. Cases Nos. 1227 to 1236 incorporating therein by reference his decision on the merits in Customs Cases Nos. 173 and 174 and remanding these cases to the Office of the Acting Collector of Customs for formal hearings and/or presentation of the records of the pertinent facts and evidence necessary for a complete adjudication of the cases; and (4) denied the urgent motion of all the importers for the immediate execution of the decisions of former Collector Ang-angco."

What is impugned in the sixth assignment of error is the interpretation of Section 2315 of the Tariff and Customs Code.¹² Its first paragraph reads: "If in any case involving the assessment of duties the importer shall fail to protest the ruling of the Collector, and the Commissioner shall be of the opinion that the ruling was erroneous and unfavorable to the Government, the latter may order a reliquidation; and if the ruling of the Commissioner in any unprotested case should, in the opinion of the department head, be erroneous and unfavorable to the Government, the department head may require the Commissioner to order a reliquidation."

How then can petitioners assert in all seriousness that the Commissioner of Customs could not *motu proprio* review a ruling which he considers erroneous and unfavorable to the government when as it so explicitly provided he could do so in any case involving the assessment of duties where the importer fails to protest the ruling of the collector. The above provision is clear and unmistakable. It cannot be made to yield a meaning other than what appears on the face thereof. It calls for application according to the specific language thus employed. It negates the assertion that the respondent Commissioner of Customs is devoid of any such authority.¹³

Petitioners, in their energetic but hopeless effort to escape from the literal language of the controlling statutory provision, would invoke *Sy Man v. Jacinto*.¹⁴ Such invocation is in vain. It is not applicable. As was there held: "In conclusion, we find and hold that under the present law governing the Bureau of Customs, the decision of the Collector of Customs in a seizure case if not protested and appealed by the importer to the Commissioner of Customs on time, becomes final not, only as to him but against the Government as well, and neither the Commissioner nor the Department Head has the power to review, revise or modify such unappealed decision." It is very clear from the above that what was involved therein was a seizure proceeding, not protest cases as we have before us. What other conclusion can there be then as to the validity of the power exercised by respondent Commissioner of Customs than that arrived at by the Court of Tax Appeals?

5. There are other errors assigned, but they are merely the alleged consequences of the failure of the Court of Tax Appeals to see things petitioners' way. Such being the case, their lack of persuasive force is apparent. That would dispose of the tenth to the twelfth assigned errors, all three of which would find fault with the Court of Tax Appeals for not nullifying the decision of the respondent Commissioner of Customs, not ordering the execution of what was done by former Collector Ang-angco and dismissing their petitions for review. What petitioners fail to realize is that the Court of Tax Appeals would have been clearly at fault had it succumbed to the above pleas.

There is likewise alleged in the last error not considered, the third, that the Court of Tax Appeals should not have required the Collector of Customs to conduct a formal hearing in a protest case. Such an assignment of error taxes one's credulity. If error there was, it was in favor of petitioners, who precisely were granted the right to a hearing.

Yet, they would complain.

Moreover, no such error was incurred. What was affirmed by the Court of Appeals was the action of respondent Commissioner of Customs remanding the cases in question "to the Office of the Acting Collector of Customs for formal hearings" or in the alternative "presentation of the records of the pertinent facts and evidence necessary for a complete adjudication * * *." That is in accordance with the controlling statutory provision which reads: "When a protest in proper form is presented in a case where protest is required, the Collector shall reexamine the matter thus presented, and if the protest is sustained, in whole or in part, he shall enter the appropriate order, the entry reliquidated if necessary."¹⁵ Even if it be assumed then that the order of respondent Commissioner of Customs went further than the statute, at the most it is a non-prejudicial error, and petitioners cannot be heard to complain.

6. The Court of Tax Appeals, as set forth at the outset, should thus be sustained. The matter before it was decided correctly. Re-spondent, Acting Collector Pacis, unlike his predecessor, manifested fidelity to the constitutional injunction that no executive official can disregard the laws, executive agreements or executive orders not excepted. Respondent Commissioner of Customs had no alternative but to uphold the corrective action taken by him. Otherwise a constitutional mandate which is incumbent on the President as on all subordinate functionaries in the executive branch would have been summarily brushed aside. This no court could allow. This the Court of Tax Appeals did not allow. Its decision must be upheld.

WHEREFORE, the decision of the Court of Tax Appeals on September 30, 1966 dismissing all the appeals in the cases then before it is affirmed. With costs against petitioners.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Capistrano, and Teehankee, JJ., concur.
Reyes, J.B.L., Castro, and Barredo, JJ., took no part.

[1] Brief for Petitioners, pp. 30-31.

[2] Ibid, pp. 31-32.

[3] Ibid, pp. 32 and 43.

[4] Ibid, pp. 32-34.

[5] Ibid, pp. 35-36.

[6] Ibid, p. 37.

[7] Ibid, p. 38.

7a Ibid, p. 120.

7b Ibid, p. 121.

7c Ibid, pp. 121-122. It must be noted that having taken effect only on July 1, 1957, Republic Act No. 1937, according to the then Collector Ang-angco, could not be made to apply to the present importation, which took place before that date.

7d Ibid, p. 159.

7e Ibid, p. 161.

8 Article I, paragraph 1, Laurel-Langley Agreement.

9 Section 2, Executive Order No. 150.

10 Article VII, Section 7, paragraph 1.

11 23 SCRA 1366 (1968).

12 Republic Act No. 1937 (1957).

13 Cf. *People v. Mapa*, 20 SCRA 1164 (1967); *Pacific Oxygen & Acetylene Co. v. Central Bank*, 22 SCRA 917 (1968); *Dequito v. Lopez*, 22 SCRA 1352 (1968); *Padilla v. City of Pasay*, 23 SCRA 1349 (1968) and *Garcia v. Vasquez*, L-26808, March 28, 1969.

14 93 Phil. 1093 (1953).

15 Section 2312, Tariff and Customs Code, R.A. No. 1937 (1957).

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