

BUENAVENTURA TAN, PETITIONER, VS. THE HON. MACARIO PERALTA, SECRETARY OF NATIONAL DEFENSE, COL. AGUSTIN MARKING, ADMINISTRATOR GEN. AFFAIRS ADMINISTRATION, DEPARTMENT OF NATIONA...

G.R. No. L-19606. April 24, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

On March 28, 1962, a composite group of men from the Philippine Constabulary, the Manila Police Department, the Bureau of Internal Revenue and the Bureau of Customs, armed with a search warrant issued by Judge Ambrosio Geraldez of the Municipal Court of Manila, entered the premises of petitioner Buenaventura Tan at Dasmariñas Street, Manila, where he had a business establishment known as B.T. Commercial, and took away, after making an inventory, considerable quantities of merchandise, consisting of watches, items of jewelry and other personal effects, as well as checks, check stubs, receipts, invoices, etc.

On March 31, 1962 petitioner filed in this Court a petition for "mandamus and declaratory relief with preliminary injunction," praying specifically that respondents Macario Peralta, Secretary of National Defense, and Agustin Marking, Administrator, General Affairs Administration, Department of National Defense, be ordered to return to petitioner all the goods and papers that had been seized; and that a writ of preliminary injunction issue for respondents to desist from further unlawful searches and seizures in petitioner's residence and places of business. The injunctive writ was forthwith issued upon a bond of P500.

Respondents answered the petition, alleging the regularity of the search warrant and of the manner the search was conducted, and the fact that the same was based on a confidential report that the goods seized had been smuggled, that is, entered into the country in violation of the Tariff and Customs Code and the National Internal Revenue Code. It appears that after the seizure the goods were not turned over to the issuing Court but placed in the custody of the Bureau of Customs," for possible filing of administrative or criminal charges against all parties involved." (See Final Report of Investigation submitted to the Collector of Customs by Adolfo Laudit, Field Investigator, Law Enforcement Command of the Bureau of Customs, dated April 11, 1962, Annex C to petitioner's Reply filed May 7, 1962.)

In the same report just referred to the Field Investigator, after a recital of his findings, made the following conclusions:

"With the above theories rigidly and carefully weighed together and as can be deduced from the facts of the case at bar, this Investigator firmly believed that NO SCINTILLA OF EVIDENCE on the part of the prosecution that could possibly link or substantiate to warrant the filing of administrative or criminal charges against the parties involved (sic). A thorough perusal of the herein attached affidavits (which for purposes of identification are marked ANNEX "A" and "B") of the apprehending officers clearly showed that the seized articles were confiscated from the subject firms right in Manila in the abovestated business addresses. For this

reasons (sic) no possible Customs violations as pro-vided under R. A. 1937 otherwise known as the New Tariff & Customs Code of the Philippines could possibly be filed in this case, more specifically Section 2530 Par. MI and MS, Sections 3601 and 3602 of the said Code. The aforecited commentaries and observations were likewise concurred after legal consultations made by this In-vestigator with Atty. CASIMIRO CALAUAG, Chief, Legal Counsel of the Bureau of Customs."

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"After due legal consultations with the two Customs legal luminaries coupled with the thorough researches and re-evaluation conducted by this Investigator on all the facts and circumstances to clinch an air-tight case against Messrs. FRANCISCO SIA and TAN BUN RING, (@ Buenaventura Tan petitioner herein) it appears that the evidence is apparently insufficient in filing formal administrative or criminal action against the duo. In view of the foregoing findings, the Bureau of Customs is therefore duty bound to return the subject confiscated goods to its owners, unless, however, the BIR has prima facie evidence for violation of the Internal Revenue Code."

Under date of July 9, 1962 two examiners of the Bureau of Internal Revenue certified that they had "checked the purchases of B.T. Commercial for the year 1961 from the Pan Pacific Traders and that the said purchases are covered by invoices." In other words they had been made locally and therefore were not open to the suspicion of having been illegally imported or smuggled by petitioner.

Consequently, upon urgent petition of petitioner dated July 25, 1962, supported by his affidavit that the articles seized had an estimated value of P40,000, and after comment by respondents thereon, this Court issued a release order on a bond of P50,000. Respondents moved to reconsider, and prayed that the bond be at least P119,878.00, but the motion was denied in the resolution of this Court of November 7, 1962.

On November 2, 1966, this Court issued the following resolution:

"In G. R. No. L-19606 (Buenaventura Tan vs. The Hon. Macario Peralta, etc., et al.), the parties are ordered to show cause within ten (10) days why the instant case should not be dismissed for being moot, without prejudice to any further right of action the Government may have against herein petitioner on the bond filed by him for the release of the goods seized by respondents and referred to in the petition. In the event there is need to continue and maintain this action, the Solicitor General is directed to move within the same period, for substitution of respondents pursuant to Section 18 of Rule 3, considering that those named in the petition have ceased to hold office."

The Solicitor-General, in representation of respondents, filed a "manifestation and/or motion" dated November 15, 1966, stating that with the return of the goods seized by respondents from petitioner the issues have now become moot and academic, and the case may be dismissed. However, he reiterated his previous motion that petitioner be required to post an additional bond of P69,678, to complete the P119,678.00 which, he says, is the amount of the taxes due the Government.

There is no showing to this Court as to how the amount aforesaid has been arrived at. On the contrary, since the inception of this case no criminal, administrative or civil complaint has been lodged against petitioner in connection with the goods in question. This according to the uncontradicted statement of petitioner, which is supported, although negatively, by the absence of anything in the record of this case to show otherwise. Under the circumstances we find no ground to increase the bond al-ready filed by petitioner for the release of the goods.

WHEREFORE, this Court resolves to dismiss this case as moot, without prejudice to any further right of action the Government may have against herein petitioner on the bond filed by him for the release of the goods seized by respondents and referred to in the petition. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Bengzon, J.P., Zaldivar, Sanchez, and Castro, JJ., concur.

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