

NARCISO O. JAO AND BERNARDO M. EMPEYNADO, PETITIONERS, VS. COURT OF APPEALS; COMMISSIONER OF CUSTOMS; COLLECTOR OF CUSTOMS, PORT OF MANILA; COL. SINDULFO R. SEBASTIAN, DIRECTOR,...

G.R. No. 104604. October 06, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

G.R. No. 104604 is a petition for certiorari of the decision[1] of the Court of Appeals, the dispositive portion of which states:

"WHEREFORE, the petition is hereby GRANTED. The orders issued by the respondent judge dated November 20, 1990, December 10, 1990, January 3, 1991 and all subsequent orders in the Civil Case No. 90-2382 of the Regional Trial Court of Makati are SET ASIDE. Having no jurisdiction over the case, the respondent judge is hereby enjoined from proceeding with Civil Case No. 90-2382 and further, Case No. 90-2382 is hereby DISMISSED.

SO ORDERED."

G.R. No. 111223 is a petition for certiorari of the resolution of the Ombudsman[2] dismissing the case filed before it by herein petitioner.

The above-docketed cases were consolidated per resolution of the Court on August 26, 1993, as the facts in both cases were the same.

These facts are the following:

On August 10, 1990, the Office of the Director, Enforcement and Security Services (ESS), Bureau of Customs, received information regarding the presence of allegedly untaxed vehicles and parts in the premises owned by a certain Pat Hao located along Quirino Avenue, Paranaque and Honduras St., Makati. After conducting a surveillance of the two places, respondent Major Jaime Maglipon, Chief of Operations and Intelligence of the ESS, recommended the issuance of warrants of seizure and detention against the articles stored in the premises.

On August 13, 1990, District Collector of Customs Titus Villanueva issued the warrants of seizure and detention.

On the same date, respondent Maglipon coordinated with the local police substations to assist them in the execution of the respective warrants of seizure and detention. Thereafter, the team searched the two premises.

In Makati, they were barred from entering the place, but some members of the team were able to force themselves inside. They were able to inspect the premises and noted that some articles were present which were not included in the list contained in the warrant. Hence, on August 15, 1990, amended warrants of seizure and detention were issued by Villanueva.

On August 25, 1990, customs personnel started hauling the articles pursuant to the amended warrants. This prompted petitioners Narciso Jao and Bernardo Empeynado to file a case for Injunction and Damages, docketed as Civil Case No. 90-2382 with prayer for Restraining Order and Preliminary Injunction before the Regional Trial Court of Makati Branch 56 on August 27, 1990 against respondents. On the same date, the trial court issued a Temporary Restraining Order.

On September 7, 1990, respondents filed a Motion to Dismiss on the ground that the Regional Trial Court has no jurisdiction over the subject matter of the complaint, claiming that it was the Bureau of Customs that had exclusive jurisdiction over it.

On November 20, 1990, the trial court denied respondents' motion to dismiss.

On November 29, 1990, petitioners' application for preliminary prohibitory and mandatory injunction was granted conditioned upon the filing of a one million peso bond.

The Court also prohibited respondents from seizing, detaining, transporting and selling at public auction petitioners' vehicles, spare parts, accessories and other properties located at No. 2663 Honduras St., San Isidro, Makati and at No. 240 Quirino Avenue, Tambo, Paranaque, Metro Manila. Respondents were further prohibited from disturbing petitioners' constitutional and proprietary rights over their properties located at the aforesaid premises. Lastly, respondents were ordered to return the seized items and to render an accounting and inventory thereof.

On December 13, 1990, respondents filed a motion for reconsideration based on the following grounds:

- a) the lower court having no jurisdiction over the subject matter of the complaint, it has no recourse but to dismiss the same; and
- (b) the lower court had no legal authority to issue an injunction therein.

On January 3, 1991 the motion for reconsideration was denied. Respondents then went to the Court of Appeals on the ground that the judge acted with grave abuse of discretion in denying their motion to dismiss and in granting petitioners' application for preliminary injunction. They argued that the Regional Trial Court had no jurisdiction over seizure and forfeiture proceedings, such jurisdiction being exclusively vested in the Bureau of Customs.

The Court of Appeals set aside the questioned orders of the trial court and enjoined it from further proceeding with Civil Case No. 90-2382. The appellate court also dismissed the said civil case.

On May 2, 1992, petitioners filed a petition with this Court to review the decision of the Court of Appeals docketed as G.R. No. 104604.

As regards G.R. No. 111223, petitioners filed criminal charges against respondents, other officers and employees of the Bureau of Customs and members of the Makati Police before the Office of the Ombudsman for Robbery, Violation of Domicile and Violation of Republic Act No. 3019, docketed as OMB Case No. 0-90-2027.

Respondent Ombudsman summarized the case before it as follows:

"This is an affidavit-complaint filed by the complainants against the respondents, Officers and Employees of the Bureau of Customs and members of the Makati Police allegedly for violation of Domicile and Robbery defined and penalized under Articles 128, 293 and 294 of the Revised Penal Code and for violation of R.A. 3019 committed as follows, to wit:

That on August 11, 1990, after receiving intelligence information of the presence of smuggled goods, some of the respondents headed by Jaime Maglipon posed themselves as Meralco inspectors and entered complainants'

stockyards and residence located at 2663 Honduras Street, Makati, Metro Manila and at 240 Quirino Avenue, Tambo, Paranaque for the purpose of searching smuggled goods found therein without the consent of the owner thereof;

That after the search, respondents on August 13, 1990 up to August 25, 1990, this time clothed with a Warrant of Seizure and Detention, with the aid of the Makati Police and several heavily armed men entered complainants stockyard located at 2663 Honduras St., Makati, Metro Manila, and pulled out therefrom several machineries and truck spare parts without issuing the corresponding receipts to the complainants to cover all the items taken.

Respondents claimed in their consolidated and verified comment that they are not liable for violation of domicile because the places entered and searched by them appear not to be the residences of the complainants but only their warehouses. As proof of this allegation, the respondents presented the pictures of said warehouses, which are attached to their comment as Annexes "6", "6-A" to "6-C" and the Sheriff's return likewise attached to their verified comments as Annex "7". According to the respondents, a charge for violation of domicile may apply only if the place entered into against the will of the owner is used exclusively for dwelling. In the case at bar, the place entered into was used more of a warehouse than a dwelling place.

Further respondents also claimed not liable for robbery (sic) because the complainants appear not to be the owners of the properties taken. Moreover, the respondents claimed that the taking is lawful because the same proceeded from a warrant of Seizures and Detention; there was no violence or intimidation of person committed and that there was no intent to gain on the part of the respondents, the purpose of the seizure of the subject goods being to collect customs duties and taxes due the government.

Lastly, the respondents disclaimed liability for a violation of R.A. 3019 because they deny having demanded from the complainants the sum of P100,000.00. Instead according to the respondents, it was the complainants who offered them P70,000.00 to delay the hauling of the seized goods as attested to in the joint affidavit of CPSGT, Ricardo Coronado and Dennis Bantequi."

A preliminary investigation was conducted and on May 31, 1991, another hearing was held to give the parties a chance to submit further evidence to support their respective claims.

On March 15, 1993 respondent Ombudsman issued a Resolution recommending that the case be dismissed for lack of merit.

On May 17, 1993, petitioners moved for the reconsideration of said resolution, but the same was denied on July 8, 1993.

Hence, the petition in G.R. No. 111223, which was filed on August 16, 1993.

In G.R. No. 111223, petitioners claim that respondent Ombudsman gravely abused his discretion in dismissing the case and in denying petitioners' motion for reconsideration.

They allege that respondent Ombudsman ignored evidence incriminatory to the raiders; that the receipts did not tally with petitioners' receipts nor with the Commission on Audit's inventory; that the respondents are guilty of robbery and of violating petitioners' constitutional right against violation of domicile. For these reasons, petitioners pray that the Ombudsman's resolution be reversed and that the Court direct the Ombudsman to cause the filing of criminal charges as may be warranted against respondents.

We find the petition in G.R. No. 111223 devoid of merit.

The Court, recognizing the investigatory and prosecutory powers granted by the Constitution to the Office of the

Ombudsman and for reasons of practicality, declared, in an En Banc resolution dated August 30, 1993, issued in G.R. Nos. 103446-47[3] that the Court will not interfere nor pass upon findings of public respondent Ombudsman to avoid its being hampered by innumerable petitions assailing the dismissal of investigatory proceedings conducted by the Office of the Ombudsman with regard to complaints filed before it, and that it will not review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant. The dismissal by the Ombudsman of petitioners' complaint, therefore, stands.

We will now discuss G.R. No. 104604.

Petitioners contend: (1) that the Court of Appeals erred in not holding that the Collector of Customs could no longer order the seizure for the second time of items previously seized and released after amnesty payments of duties and taxes; (2) that the Bureau of Customs has lost jurisdiction to order the seizure of the items because the importation had ceased; (3) that the seizure of the items deprived the petitioners of their properties without due process of law; and (4) that there is no need to exhaust administrative remedies.

We find no merit in petitioners' contentions.

There is no question that Regional Trial Courts are devoid of any competence to pass upon the validity or regularity of seizure and forfeiture proceedings conducted by the Bureau of Customs and to enjoin or otherwise interfere with these proceedings[4] The Collector of Customs sitting in seizure and forfeiture proceedings has exclusive jurisdiction to hear and determine all questions touching on the seizure and forfeiture of dutiable goods. The Regional Trial Courts are precluded from assuming cognizance over such matters even through petitions of certiorari, prohibition or mandamus.[5]

It is likewise well-settled that the provisions of the Tariff and Customs Code and that of Republic Act No. 1125, as amended, otherwise known as "An Act Creating the Court of Tax Appeals," specify the proper fora and procedure for the ventilation of any legal objections or issues raised concerning these proceedings. Thus, actions of the Collector of Customs are appealable to the Commissioner of Customs, whose decision, in turn, is subject to the exclusive appellate jurisdiction of the Court of Tax Appeals and from there to the Court of Appeals.

The rule that Regional Trial Courts have no review powers over such proceedings is anchored upon the policy of placing no unnecessary hindrance on the government's drive, not only to prevent smuggling and other frauds upon Customs, but more importantly, to render effective and efficient the collection of import and export duties due the State, which enables the government to carry out the functions it has been instituted to perform.[6]

Even if the seizure by the Collector of Customs were illegal, which has yet to be proven, we have said that such act does not deprive the Bureau of Customs of jurisdiction thereon.

"Respondents assert that respondent Judge could entertain the replevin suit as the seizure is illegal, allegedly because the warrant issued is invalid and the seizing officer likewise was devoid of authority. This is to lose sight of the distinction between the existence of the power and the regularity of the proceeding taken under it. The governmental agency concerned, the Bureau of Customs, is vested with exclusive authority. Even if it be assumed that in the exercise of such exclusive competence a taint of illegality may be correctly imputed, the most that can be said is that under certain circumstances the grave abuse of discretion conferred may oust it of such jurisdiction. It does not mean however that correspondingly a court of first instance is vested with competence when clearly in the light of the decisions the law has not seen fit to do so."[7]

The allegations of petitioners regarding the propriety of the seizure should properly be ventilated before the Collector of Customs. We have had occasion to declare:

"The Collector of Customs when sitting in forfeiture proceedings constitutes a tribunal expressly vested by law with jurisdiction to hear and determine the subject matter of such proceedings without any interference from the Court of First Instance. (Auyong Hian v. Court of Tax Appeals, et al., 19 SCRA 10). The Collector of Customs of Sual-Dagupan in Seizure Identification No. 14-F-72 constituted itself as a tribunal to hear and determine among other things, the question of whether or not the M/V Lucky Star I was seized within the territorial waters of the Philippines. If the private respondents believe that the seizure was made outside the territorial jurisdiction of the Philippines, it should raise the same as a defense before the Collector of Customs and if not satisfied, follow the correct appellate procedures. A separate action before the Court of First Instance is not the remedy." [8]

WHEREFORE, the petitions in G.R. No. 104604 and in G.R. No. 111223 are hereby DISMISSED for lack of merit.

SO ORDERED.

Feliciano, Padilla, Regalado, Davide, Jr., Bellosillo, Puno, Vitug, Kapunan, Mendoza, Francisco, and Hermosisima, Jr., JJ., concur.

Narvasa, C.J., and Melo, JJ., on official leave.

[1] G.R. No. 104604, Rollo p. 21, Torres, ponente, Francisco and Santiago, JJ. concurring.

[2] G.R. No. 111223, Rollo, p. 91.

[3] Ocampo v. Ombudsman, 225 SCRA 725 (1993).

[4] Commissioner of Customs v. Makasiar, 177 SCRA (1989).

[5] General Travel Service v. David, G.R. No. L-19259, September 23, 1966, 18 SCRA 59; Pacis v. Averia, G.R. No. L-22526, November 29, 1966, 18 SCRA 907; De Joya v. Lantin, G.R. No. L-24037, April 27, 1967, 19 SCRA 893; Ponce Enrile v. Vinuya, G.R. No. L-29043, January 30, 1971, 37 SCRA 381; Collector of Customs v. Torres, G.R. No. L-22977, May 31, 1972, 45 SCRA 272; Pacis v. Geronimo, G.R. No. L-24068, April 23, 1974, 56 SCRA 583; Commissioner of Customs v. Navarro, G.R. No. L-33146, May 31, 1977, 77 SCRA 264; Republic v. Bocar, G.R. No. L-35260, September 4, 1979, 93 SCRA 78; De la Fuente v. De Veyra, G.R. No. L-35385, January 31, 1983, 120 SCRA 451.

[6] Commissioner of Customs v. Makasiar, *supra*.

[7] Ponce Enrile v. Venuya, *supra*.

[8] De la Fuente v. de Veyra, *supra*.

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