

**BUENAVENTURA S. TENORIO, ACTING CHIEF, LAW DIVISION,
MARIANO ABANILLA, CHIEF, PROSECUTION & INVESTIGATION
DIVISION, ROMEO SARTE, SPECIAL COUNSEL, ALL OF THE BUREAU
OF CUSTOMS, P...**

G.R. No. 110604. October 10, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a petition for review on certiorari of the June 9, 1993 Decision[1] of the Court of Appeals in CA-G.R.CR No. 14090, affirming on appeal, the January 22, 1993 Resolution[2] of the Regional Trial Court of Pasig, Metro Manila (now Pasig City), Branch 68, which affirmed with modification the April 7, 1992 Resolution[3] of the Metropolitan Trial Court of San Juan, Metro Manila, Branch 57, citing the petitioners for indirect contempt in *People of the Philippines v. Antonio Coseng*, Search Warrant No. 18-91 for violation of the Tariff and Customs Code.

This case stemmed from the following factual backdrop:

On August 12, 1991, P/Lt. Christopher L. Tambungan of the RPIU CAPCOM, Philippine National Police (PNP) applied with the Metropolitan Trial Court (MeTC) of San Juan, Metro Manila, Branch 57, for the issuance of a warrant to search the dwelling of private respondent Antonio Coseng. The private respondent was suspected of having in his possession or control untaxed and smuggled goods, said to be at No. 267 or 106, P. Guevarra St., San Juan, Metro Manila. The application was docketed as *People v. Antonio Coseng*, Search Warrant No. 18-91. Therein, it was prayed that a search warrant issue to enable any agent of the law to take possession of and bring to the Court the following articles:

- Assorted 20 pcs. Hand-held radio (ICOM);
- 30 pcs. of TV sets (Sanyo and Sony);
- 40 pcs. stereo cassettes;
- assorted betamax TV;
- assorted radio components;
- calculators; and
- radio boosters.[4]

The court granted the application and issued Search Warrant No. 18-91 on August 12, 1991 with specific orders to the police officers to search No. 267 or 106 P. Guevarra St., San Juan, Metro Manila, for the articles therein described and to bring the same to the court to be dealt with as the law requires:

ASSORTED 20 PIECES HAND-HELD RADIO (ICOM), 30 PIECES OF TV SETS (SANYO and SONY), 40

PIECES STEREO CASSETTES, ASSORTED (SIC) BETAMAX TV, ASSORTED RADIO COMPONENTS, CALCULATORS, AND RADIO BOOSTERS.[5]

The court authorized Tambungan to serve the warrant day and night and directed that the search be made in the presence of witnesses or barangay officials.[6]

At about 3:30 p.m. of the same day, Tambungan and some police officers served the search warrant on a certain Johnny Corpuz who was in the house to be searched. However, he refused to receive the warrant. Nevertheless, the police officers conducted a search in the presence of the barangay officials and counsel for the private respondent Atty. Pedro Aguilar. The private respondent was reportedly outside the country at that time.[7] The search team seized assorted articles, not only those described in the search warrant but also other goods, enumerated and described as follows:

- 372 pcs. Clarion Radio, packed in 21 boxes
- 90 pcs. Tech WEM 17 microphones
- 6 pcs. Maclin Songmate
- 4 pcs. VM 200 HL Audio & Video Monitors
- 104 pcs. Sony RM 50; 9 pcs. Wesstone; 38 pcs. Microphone 230 Sony RM 50; 34 pcs. VCR Stabilizer, 4 pcs. Western Playback
- 2 pcs. ICOM Handheld Radios.[8]

Instead of bringing the seized goods to the court, Tambungan called Senior Inspector Alex Bautista of the Bureau of Customs (BOC) on August 14, 1991, and reported the seizure of the goods. Without authority from the court, Tambungan later turned over the seized goods to P/Lt. Gilbert Cruz of the CAPCOM. He later turned over the goods to Bautista who issued a receipt therefor:

- 40 pcs. Sony RM 50;
- 37 pcs. Mini-phone HD11-4;
- 34 pcs. VCR Image Stabilizer VP-5010;
- 34 pcs. Fuji Den Automatic Car Antenna;
- 90 pcs. TECT Wireless Microphone Model WEM-17;
- 21 boxes car radio AM;
- 5 pcs. Bigstar Deluxe Car Stereo Speaker;
- 13 pcs. Sanyo Model MW - 323K;
- 7 pcs. Maclin Karaoke;
- 11 pcs. Weston T-2510 FM/AM StereoTuner/Amplifier;
- 4 pcs. Weston Playback Stereo Deck PD-113;
- 27 Boxes Sony Radio Cassettes;
- 4 pcs. audio/TV system;
- 2 pcs. ICOM handheld;

- 1 pc. Opto-Electronics Inc.[9]

Bautista in turn turned over the goods to the Legal and Investigation Staff Enforcement and Security Service of the BOC, which then stored the goods at the Bureau's Warehouse No. 6.

In the meantime, Tambungan filed his return on the writ, including an ex-parte motion praying for a post facto authority for Senior Inspector Alex Bautista to retain custody of the seized evidence, preparatory to the filing of a criminal complaint for violation of Section 102 (Smuggling) of the Tariff and Customs Code against private respondent Antonio Coseng.[10] However, no such criminal complaint for violation of the TCC was filed against the private respondent.

On September 2, 1991, the court issued an order denying Tambungan's motion and directing him to turn over all the seized articles to the trial court within ten days from notice of the said order. The next day, the private respondent filed a motion with the MeTC for the release of the seized articles, alleging that except for 13 pieces of Sanyo appliances, 27 pieces of long radio cassettes, and 2 pieces of ICOM, the search team also seized articles from his house which were not included in Search Warrant No. 18-91.[11] In his Answer to the Order dated September 16, 1991, Tambungan alleged that:

- Above-mentioned seized items were turned-over to the Bureau of Custom for the following grounds:

- This office has no secured and air-conditioned stock room for the seized properties.

- Further investigation and proper disposition of the case has been consolidated with the legal and investigation service of the Bureau of Custom who has jurisdiction on the implementation of the Custom and Tariff Code of the Philippines particularly smuggling offenses.

- That I am aware that all evidences seized should be turned-over to the competent authority or Bureau of Custom within a reasonable time. [12]

In the meantime, seizure proceedings were instituted at the BOC, docketed as Seizure Identification Case No. 91-379.[13] On October 3, 1991, Acting District Customs Collector Buenaventura C. Maniego issued a warrant of seizure and detention of the goods owned by Tambungan for violation of Section 2530 of the TCC.

Acting on the motion of the private respondent, the trial court issued an Order on October 4, 1991 directing Tambungan and the Bureau of Customs to turn over all the seized articles to the court within fifteen days.[14] The hearing in SI No. 91-379 was reset to October 25, 1991.

In the meantime, on October 21, 1991, during the hearing of Coseng's motion for the return of the seized articles not included in the search warrant issued by the trial court, it was manifested that P/Lt. Gilbert Cruz turned over the said articles to the Chief Enforcement and Security Service of the BOC, through Senior Inspector Alex Baustista, who recommended that the goods be placed in their custody. It was, likewise, manifested that a warrant of seizure and detention over the goods had been issued by Acting District Collector of Customs Buenaventura Maniego. The trial court forthwith ordered Alex Bautista, Buenaventura Maniego and Gilbert Cruz to appear before the court on November 6, 1991 at 9:00 a.m. to explain why they should not be declared in contempt for their failure to deliver the seized articles to the court.[15] In its order, the court stated that the seizure of the goods was made on the strength of the search warrant issued by it; hence, the goods must be turned over to the court. The BOC had no authority to take custody of the seized goods until the court so ordered therefor.

During the November 6, 1991 hearing, the trial court learned that the following articles were seized by the CAPCOM officers and turned over to the BOC but were not included in the inventory submitted to the court:

m) 4 pcs. Audio/TV System

- n) 2 pcs. ICOM hand-held radio and
- o) 1 pc. Opto-Electronics Inc.[16]

Consequently, Maniego and Bautista, represented by Atty. Godofredo Bernardino, were ordered to account for the said articles within ten days from receipt of the order of the court.[17] Similarly, the trial court ordered the BOC to surrender the seized items to the court, including the additional missing items.[18] The court warned that failure to comply with the order would amount to indirect contempt of court.

Maniego and Bautista failed to comply with the said order and failed to appear during the hearing on December 2, 1991. On the said date, the court issued an order requiring Maniego, Bautista and their counsel to explain within five days why they should not be declared in contempt of court for such failure to comply with the order.[19] The hearing for contempt was reset to December 17, 1991. Maniego, Bautista and Bernardino once more failed to comply with the order of the court. The hearing was again reset to January 30, 1992. On the said date, the court issued an order requiring Tambungan and Cruz to explain within five days from notice why they should not be punished for contempt for turning over the custody of the seized goods to the BOC without court authority. Again, Maniego was ordered to turn over the items to the court within five days from notice thereof.[20] On January 22, 1992, Tenorio furnished the Chief of the Enforcement Security Service of the Bureau of Customs with an undated and unsigned copy of the decision purportedly rendered by District Customs Collector Emma M. Rosqueta in Seizure Identification Case No. 91-379, forfeiting all the goods kept by Tambungan in favor of the government to be disposed of in the manner provided for by law.

During the hearing of the contempt incident on February 1, 1992, Maniego, Bautista and their counsel failed to appear. The court issued an order requiring them to explain why they should not be held in contempt for such failure to appear. Attys. Buenaventura S. Tenorio and Emma M. Rosqueta were likewise ordered to explain in writing within five days why, notwithstanding BOC's lack of jurisdiction, the confiscation of the seized items was ordered.[21] On February 18, 1992, Tambungan and Cruz filed their Joint Manifestation that:

. . . [T]he reason why we have turned over because basically during the search there was coordination with the Bureau of Custom agents and the laws which we believed that being violated by the accused lies upon the Tariff and Custom Code whose jurisdiction confined with the Bureau of Custom to prosecute the same, unless there is a written approval authorizing this unit to prosecute the case hence, we have no alternative, but to turn-over the item subject of this case; furthermore, in our command we have no warehouse wherein which said item should be embarked thereof, thereby exposing said item into damage if we have taken custody of the aforesaid item therefore we have turned over the item seized thereof;

2.) That the turn-over made to the Bureau of Custom does not violate the provision of the Rules of Court and particularly under Sec. 11, Rule 126 since the Bureau of Custom is the agency whom [sic] authorized to prosecute the case being the laws which is violated by the accused fall within the Tariff and Custom Code, and that our personality were just witness to the said case hence this written manifestation in compliance to an order dated 30[th] January 1992.[22]

On February 28, 1992, the court again ordered the BOC to turn over the goods within 10 days.[23] Solicitor Herminio R. Miranda, counsel for the BOC, manifested to the court that the seized articles would be turned over to the court within the said period. In the meantime, a warrant of arrest was issued against Cruz for his failure to appear before the court during the hearing.[24] The private respondent was likewise required to submit documents to prove that the seized goods were not acquired in violation of the law.

During the March 10, 1992 hearing on the contempt charge, Atty. Sarte, special counsel of the BOC, manifested to the court that the BOC would turn over the seized articles to the court. However, Atty. Sarte failed to do so, explaining that the BOC, after assessing the facts and in light of the opinion of Atty. Mariano Abanilla, BOC

Chief of the Prosecution Division, decided to retain custody of the goods. Thus, Atty. Sarte and Solicitor Miranda were ordered to submit to the court their respective memoranda on the incidents prior to March 31, 1992. Attys. Tenorio and Rosqueta were ordered to manifest whether they would adopt Solicitor Miranda's memoranda. The court also ordered Attys. Abanilla, Tenorio, Maniego, Rosqueta, Cruz, Tambungan and Bautista to appear before the court on March 31, 1992.[25] For his part, the private respondent filed a compliance stating that of the goods seized by Tambungan and the other police officers the rest of the goods seized were not covered by the search warrant issued by the court:

- On the face of the Return of the Writ, it is self-evident that except for nine (9) pieces of SANYO radio cassettes, twenty-seven (27) boxes of SONY radio cassettes and two (2) pieces of ICOM hand-held radios, all of the articles seized were not covered or included in Search Warrant No. 18-91 issued by the Court.

3.1.

Of the total twenty-seven (27) boxes of SONY radio cassettes and nine (9) pieces of SANYO radio cassettes seized, twenty-three (23) boxes of the twenty-seven (27) Sony radio cassettes were part of the assorted electronics, together with the nine (9) pieces Sanyo radio cassettes, bought by Mr. Antonio Coseng and his partner, Mr. Eddie Uy, from Mr. Raul R. Estrella, a winning bidder in an Auction Sale held by the Bureau of Customs on 28 June 1984 under Lot No. 11 of the Notice of Sale dated 13 June 1984. (Please see Exhs. "1" to "1-I"). Four (4) of the twenty-seven (27) boxes were bought from Mr. Eddie Uy, a winning bidder in an Auction Sale held on May 31, 1990, under Sale Lot No. 3.

3.2

The two (2) pieces of ICOM hand-held radios seized are duly registered with the National Telecommunications Commission.[26]

The private respondent also stated that the other articles seized by Tambungan were acquired by him lawfully, thus:

ARTICLES

SOURCE

1)

572 pcs. of Clarion

radio packed in

21 boxes

a) Auction Sale conducted

by the Bureau of Customs

on 9 July 1981. . . .

b) Some were bought

from Bombay Bazar, a

winning bidder in an

Auction Sale held on

7 July 1981. . . .

2)

90 pcs. TECT WEM 17

Bureau of Customs

microphone

Auction Sale on 30

Sept. 1987. . . .

3)

6 pcs. MACLIN
Maclin Electronics.

1 pc. Songmate . . .

4)

4 pcs. VM 200 XL
Pengson International

Audio/Video
Trading Corporation. . . .

Monitor

5)

104 pcs. Sony RM-50
Part of the Auction Sale

9 pcs. Weston
held on 28 June 1984

38 pcs. Mini-phone
under Sale Lot No. 11 of

230 pcs. Sony RM-50
the Notice of Sale dated

34 pcs. VCR Image
13 June 1984. . . .[27]

Stabilizer

4 pcs. Western playback

5 pcs. Big Star Speaker

Copies of documents showing how the aforesaid goods were acquired were also appended therein.

On March 18, 1992, the public respondents, through the Office of the Solicitor General, filed their Memorandum, contending that they should not be cited for contempt for the following reasons:

a)

No criminal complaint or information was filed with the court in connection with the goods seized by virtue of the search warrant. As such, there was no basis for the court to proceed criminally against the claimants and/or the goods;

b)

It is the BOC alone that decides the course of action to take against the claimants and/or the goods; and,

c)

Since there was already a decision which validated the seizure and forfeiture proceedings, the goods belonged to the government. Until the reversal of the BOC decision, the court may not make any disposition of the seized goods; hence, the failure of the public respondents to turn over the goods to the court did not constitute indirect contempt of court.

On April 8, 1992, the court issued a resolution holding the respondents therein guilty of indirect contempt. The decretal portion of the resolution reads:

WHEREFORE, the following are declared to have committed INDIRECT CONTEMPT OF COURT and are therefore sentenced as follows:

P/LT. CHRISTOPHER L. TAMBUNGAN, for his utter disregard of Section 11, Rule 126 of the Rules of Court and his unwarranted turn over of the seized articles to the Bureau of Customs - to suffer the penalty of TWO (2) MONTHS imprisonment (Aresto [sic] Mayor) and a FINE of ONE THOUSAND (P1,000.00) PESOS, with subsidiary imprisonment in case of insolvency;

P/LT. GILBERT CRUZ, for his participation in the illegal turn over - to suffer ONE (1) MONTH imprisonment (Aresto [sic] Menor);

ATTYS. MARIANO ABANILLA and ROMEO SARTE, are each sentenced to pay a FINE of ONE THOUSAND (P1,000.00) PESOS; ATTY. ROMEO SARTE for his promise and failure to accomplish his promise to turn over the articles to this Court and ATTY. MARIANO ABANILLA, for his order of refusal to turn over the articles as promised;

ATTYS. BUENAVENTURA S. TENORIO and EMMA M. ROSQUETA, as Chief of the Prosecution Division, Bureau of Customs, Manila, and District Collector, Port Area, Manila, respectively, for their contemptuous [sic] act of ordering the confiscation of the articles sans jurisdiction or authority and while this case is being heard before this Court; are each sentenced to suffer imprisonment for a period of THIRTY (30) DAYS and to pay a FINE of TWO THOUSAND (P2,000.00) PESOS.

By reason of their continued refusal to surrender the seized articles in defiance of the orders of this Court and being the ones capable and responsible for the surrender of the seized articles; Attys. Buenaventura S. Tenorio and Emma M. Rosqueta in addition and independently of the foregoing, must be held in the custody of the Court indefinitely until they shall have complied with the orders of this court; but considering that only a superior court can order the Warrant of Arrest for the indefinite detention of these Customs Officials until they shall have obeyed the orders of this Court, pursuant to Sec. 7, Rule 71 of the Rules of Court; let the records of this case be forwarded to the Regional Trial Court of Pasig, Metro Manila, for the issuance of the proper Warrants of Arrest against Attys. Emma M. Rosqueta and Buenaventura S. Tenorio.

...

Let a copy of this Order likewise be furnished the Office of the Ombudsman for whatever action they wish to take on the basis of the foregoing.[28]

The trial court ratiocinated that there was a well-grounded fear that the seized articles no longer existed. The court stated that it had reason to believe that the respondents' refusal to turn over the articles seized was due to the fact that they had already been lost. Thus, for their continued and contumacious failure to turn over the goods as ordered, the respondents therein were held in contempt of court.

Aggrieved, the therein respondents filed notices of appeal on April 10 and 11, 1992.[29] On July 21, 1992, the RTC issued a resolution affirming with modification the resolution of the MeTC. The RTC explained its ruling, thus:

The acts of the public respondents in its deliberate failure to turn over the seized articles to the inferior Court (which was the Court that issued the search warrant) within the time frame mandated by law is highly irregular. The public respondents particularly the police officers who seized the items listed in the inventory instead turned it over to the Bureau of Customs without any permission from the issuing Court. This Court, however, takes note of the fact that the Acting Collector of Customs, Port Area, Manila, thru respondent, the appellant, Emma Rosqueta issued a Warrant of Seizure and Detention on October 3, 1991 per Seizure Identification No. 91-379 while the order to turn over the seized items was issued by the Court on October 4, 1991 or one day after the warrant of seizure and detention was issued by the Bureau of Customs. Likewise, the Court takes note of the fact that the Orders of the inferior Court were received by the Bureau of Customs as of October 14, 1991 (Decision, p. 226, third par.). This readily explains the reason why the public respondents herein could not have turned over the seized goods to the inferior Court. While this maybe true, public respondents, Emma Rosqueta and Buenaventura Tenorio should have exercised prudence and the necessary precaution before issuing the warrant of seizure and detention. They are presumed as the Court perceives they are fully aware that the seized items which were the objects of the warrant of seizure and detention issued were seized as a consequence of the issuance of the search warrant made by the inferior Court. Being lawyers, both respondents are presumed to know that after any search warrant is implemented, the same shall be returned to the issuing Court together with the seized articles and an inventory shall be conducted. Likewise, both respondents who are members of the Bar should know as they are presumed to know that before any seized articles object of a search warrant may be retained by any person or entity aside from or apart from the issuing Court, Court approval must first be obtained. It is for this reason that this Court feels that the public respondents' action as found by the inferior Court are plainly and simply contumacious and was lone in complete disregard of the integrity and authority of a judicial body.[30]. . .

WHEREFORE, the Court finds nothing in the questioned resolution of the inferior Court which may be considered reversible errors. However, and because justice should be tempered with mercy, this Court hereby affirms the findings of the inferior Court with the following modifications:

- As to respondent P/LT. CHRISTOPHER L. TAMBUNGAN, for his utter disregard of Section 11, Rules 126 of the Rules and his unjustified failure to turn over the seized articles to the Court, he is hereby sentenced to pay a fine of P2,000.00 with subsidiary imprisonment in case of insolvency or failure to pay such fine;
- As to respondent P/LT. GILBERT CRUZ, for his participation in the unwarranted turn over of the seized goods to the Bureau of Customs, he is hereby sentenced to pay a fine of P1,000.00 with subsidiary imprisonment in case of insolvency or failure to pay the same;
- As to respondents Attys. Mariano [Abanilla] and Romeo Sarte, each are sentenced to pay a fine of P1,000.00 with subsidiary imprisonment in case of insolvency or failure to pay such fine for his promise and failure to accomplish his undertaking and commitment to turn over the articles to the lower Court and Atty. Mariano Abanilla for his order of refusal to turn over the articles as promised;
- As to respondents Attys. Buenaventura S. Tenorio and Emma M. Rosqueta, as Chief of the Prosecution Division, Bureau of Customs, Manila, and District Collector, Port Area, Manila, respectively, for their contemptuous act of ordering the confiscation of the articles sans jurisdiction or authority are each sentenced to pay a fine of P2,000.00 with subsidiary imprisonment in case of insolvency or failure to pay said fine.

Costs against the respondents.[31]

Respondent Emma M. Rosqueta filed a motion for the reconsideration of the said resolution. On January 22, 1993, the RTC rendered a Resolution, granting respondent Rosqueta's motion, thus:

WHEREFORE, respondent Rosqueta's motion for reconsideration is GRANTED and she is hereby acquitted of the contempt charge. The inferior court's resolution dated April 7, 1992 is reversed and set aside insofar as it finds her guilty of contempt.[32]

The RTC ruled that Rosqueta was not the signatory in the warrant of search and seizure issued by the BOC. Likewise, it was found that there was no restraining order which prevented Rosqueta from exercising her statutory functions as Collector of Customs. The court found that the January 20, 1992 Order of the MeTC was not used as the basis for the declaration of contempt. Furthermore, the said order was apparently not received by Rosqueta.[33]

Meanwhile, the other respondents filed a petition for review with the Court of Appeals, docketed as CA-G.R. CR No. 14090, alleging that:

I

The assailed Resolutions, including all the Orders to turn-over seized items to court, are not only unlawful but also uncompliant.

II

Respondent court acted in excess of jurisdiction in the imposition of penalties on petitioners. [34]

On June 19, 1993, the CA rendered a decision denying the petition with modifications:

WHEREFORE, except for the penalty in excess of P100.00 which is hereby declared void, the petition is DENIED.[35]

The CA ruled that the goods seized by Tambungan were in custodia legis. Tambungan was mandated by Section 11, Rule 126 of the Rules of Court to deliver the goods seized to the court that issued the search warrant. The said warrant was applied for and issued for the prosecution and conviction of the accused for possession of smuggled goods, an offense under Section 3601 of the TCC. According to the appellate court, the disposition of the seized goods is but a consequence of the said criminal proceedings. Moreover, only the court that rendered judgment in the criminal case may order its release. Invoking the jurisdiction of the court and inducing it to issue a search warrant on the ground that an offense had been committed, only to later repudiate the authority of the court after the warrant had already been implemented, and the goods seized, is a reprehensible act, constituting an unlawful interference of the court's custody of the goods seized as objects of the crime. Petitioners Tambungan and Cruz had even promised to turn over the goods to the court, only to later renege on such promise.

Dissatisfied, the petitioners filed the petition at bar, asserting that contrary to the ruling of the CA, the search warrant was applied for and issued by the court to enforce the administrative authority of the Bureau of Customs over the res. Under the Tariff and Customs Code (TCC), the role of the courts is merely to aid in the implementation of the customs laws, via the issuance of a search warrant, when the items are concealed in a house or dwelling. According to the petitioners, the Collector of Customs (COC) had original and exclusive jurisdiction over seizure and forfeiture cases, particularly on the determination of the legality or illegality of the search and seizure of goods. Hence, it behooved the court to grant petitioner Tambungan's motion to deliver the goods to the BOC. The State had a lien over the goods seized, and the enforcement of the said lien over the goods, which was covered by a judicial warrant and/or warrant of seizure and detention, is a matter purely within the original and exclusive jurisdiction of the BOC. The petitioners assert that the MeTC may not interfere therein by ordering the release of the goods especially after a decree of forfeiture had already been issued, and a decision thereon already rendered by the BOC. They insist that it was the COC who issued a writ of seizure and detention to the exclusion of the court, and ordered the release of the said goods; hence, petitioners Tambungan and Cruz could not have complied with the orders of the court to turn over the goods seized.

The petition is denied.

Rule 126, Section 11(a) of the Rules of Criminal Procedure reads:

SEC. 11. Delivery of property and inventory thereof to court. - The officer must forthwith deliver the property seized to the judge who issued the warrant, together with a true inventory thereof duly verified under oath.

The duty of petitioner Tambungan to deliver the items seized by him to the court which issued the search warrant is mandatory in character. This is evident by the use in the rule of the word "must." The rule is not merely a piddling procedural rule. The requirement is to preclude substitution of the items seized by interested parties or the tampering thereof,[36] or the loss of such goods due to the negligence of the officers effecting the seizure or their deliberate acts. On the face of the search warrant issued by the court, petitioners Tambungan and Cruz were "commanded to bring the goods described therein to the court to be dealt with as the law requires." The officers enforcing the search warrant were acting on orders of the court; hence, were under its supervision and control.[37] The Court has inherent disciplinary power over such officers and can thus enforce its powers against them. Such officers may not retain possession and custody of the items seized unless with the approval of the court that issued the warrant.[38] Absent such approval, the said officers had no authority to deliver the items seized to another person or agency of the government. If the items seized are delivered to others or another government agency without the approval of the court that issued the search warrant, goods are not considered in the custody of the court.[39] If the officers enforcing the warrant refuse to turn over the goods, as ordered by the court, they may be cited for indirect contempt under Rule 71, Section 3(b) of the Rules of Court which reads:

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;[40]

Case law has it that the court which issued the search warrant acquires jurisdiction over the items seized under the said warrant. Goods seized lawfully on the basis of the said warrant or its accepted exceptions are in custodia legis.[41] Only that court which issued the warrant may order the release or disposition thereof.[42] The jurisdiction, custody and control of the court over the items seized cannot be interfered with even by the BOC via a warrant of seizure and detention issued by the COC over the said goods.

In this case, petitioner Tambungan and Cruz of the CAPCOM turned over the seized goods to Senior Inspector Alex Bautista of the BOC, who, in turn, delivered the goods to the Legal and Investigation and Security Service of the BOC without any authority from the court. Although petitioner Tambungan filed an ex parte motion for Bautista to retain possession and custody of the goods, the court denied the said motion and ordered him and Bautista to turn over the goods to the court as mandated by the Rules of Court and as stated in the warrant. Not only did the petitioner deprive the court of its custody of the goods; the petitioner simply refused to comply with the court's orders.

Petitioners Tambungan and Cruz secured the search warrant from the court with full awareness of their concomitant duty under the Rules of Criminal Procedure to turn over the goods described in the said warrant to the court. By their acts, the petitioners defied the Rules of Court, repudiated their mandate, and abused and demeaned court processes. As aptly ruled by the CA:

Invoking the jurisdiction of the Metropolitan Trial Court and inducing the latter to issue a search warrant on the ground that an offense has been committed, only to later on repudiate the authority of the judge thereunder after a search and seizure pursuant thereto has been made is reprehensible and constitutes an unlawful interference with the Court's lawful custody of what has been lawfully seized as objects of a crime. This should not receive the sanction of this Court.

The refusal of petitioners to comply with the lawful and mandatory obligation imposed by the search warrant which they themselves obtained from the Court, to deliver the property seized to the judge who issued the warrant after denial of their motion to retain custody, and order for them to deliver the property to the judge who issued the warrant as mandated by the rules constitutes not only a gross abuse of the process of the Court but a defiance of the authority, justice and dignity of the court which both respondent judge properly found as contempt of court.[43]

A search warrant may issue to respond to an incident in the main case if one has already been instituted, or in anticipation thereof.[44] In this case, petitioner Tambungan secured the search warrant in anticipation of the private respondent's prosecution for violation of the TCC (smuggling of goods) and not for the purpose of enforcing the administrative authority of the BOC for the seizure and confiscation of the goods in favor of the government. The release and disposition of the goods seized were for the court in the criminal case to delve into and resolve. Until the institution of the appropriate criminal action with the proper court, the court which issued the search warrant retained custody and control of the goods seized. The issuing court had exclusive jurisdiction to delve into and resolve issues thereon, such as the legality of the seizure of the goods and the release and disposition of the goods seized.[45] The court may even receive evidence in connection with the motion filed by the aggrieved party for the return of the goods seized.

As it was, the private respondent alleged that many of the goods seized by petitioner Tambungan were not covered by the said warrant. He procured some of them through a public auction sale conducted by the BOC. Some of the items seized were not even included in the inventory of the goods submitted by petitioner Tambungan. This prompted the private respondent to file a motion for the release of the goods to him, including the missing items. Thus, the Court had to order the petitioner to account for the goods seized based on the warrant and determine whether or not the allegations of the private respondent were true. Only the court which issued the warrant, and not the BOC, could resolve the motion, absent any criminal action filed in connection with the said warrant. To enable the court to resolve the private respondent's pending motion, it was imperative that the goods be brought before it.

The petitioners' intractable refusal to produce the goods and turn over the same to the court generated veritable suspicion that the items seized were no longer available, and that the seizure proceedings in the BOC was merely an afterthought to cover up for the their loss:

Parenthetically, the contumacious refusal of petitioners to deliver the seized merchandise to the custody of the Court has generated the suspicions that the merchandise is no longer available and that the seizure proceedings is merely a cover-up. The MTC observed:

Acting on the well grounded fear that the seized articles may have already disappeared, the Criminal Investigation Service of the San Juan Police Department, PNP, is hereby ordered to conduct an investigation leading to the filing of the corresponding criminal charges for Theft or Infidelity against the parties concerned.
...

The private respondent, on the other hand , pointed out:

21. The trial court was correct in saying that the seized articles at the time that they were ordered turned over to the Court, no longer existed, hence, the overt cover-up. Consider this string of events:

a) The police officers, instead of turning over the articles to the Court, immediately delivered the same to the Bureau of Customs and only thereafter did they ask the Court for authority to retain the same;

b) The Bureau, thru its lawyers, repeatedly promised in open court that they will deliver the seized goods only to renege for [sic] the flimsy and ridiculous reason that the Court had no air-conditioned warehouse in which the goods could be kept; and,

c) The abrupt order of confiscation dated 20 January 1992 issued by Rosqueta, the icing on the case, so to speak.

22. All the foregoing were part of a conspiracy to cover up the mess created by the illegal seizure of the goods belonging to the accused which, from all indications, appear to have been lost. Having participated therein, nay, having given the coup de grace to that conspiracy, petitioners were aptly held in contempt of Court. ...

The foregoing observations all the more render imperative the surrender of the seized items to the custody of the court who ordered their seizure upon application of one of the petitioner himself. After all, the court may be presumed to know how to properly dispose of the case in accordance with law, if said merchandise are really smuggled items.[46]

In *People v. CFI, et al.*,[47] the Court held that "it is not for this Court to do less than it can to implement and enforce the mandates of the customs and revenue laws. The evils associated with tax evasion must be stamped out." [48] But the Court emphasized that the campaign to stamp out tax evasion should be without disregard of any constitutional right of private persons to unreasonable search and seizure.[49]

The petitioners aver that this Court has held that, conformably with the doctrine of primary jurisdiction, the question of seizure and detention as well as the forfeiture of imported goods is for the COC to determine at the first instance, and may later be appealed to the Commissioner of Customs and thereafter to the Court of Tax Appeals. The petitioners also assert that the Court has also ruled that the COC has exclusive jurisdiction over seizure and detention as well as forfeiture cases, the determination of the ownership of the goods and/or the legality of their acquisition, and the legality or illegality of the warrant of seizure and detention issued by the Collector. Thus, even the ordinary courts may not deprive the COC of his jurisdiction therefor.

The contention of the petitioners is based on a wrong premise and does not hold water. Indisputably, the Collector of Customs has exclusive original jurisdiction over seizure and detention proceedings and that the regular courts cannot interfere with nor deprive him of such jurisdiction. However, as correctly held by the CA, the exclusive original jurisdiction of the Collector on the said goods pertains only to the goods seized pursuant to the authority under the TCC. Goods seized on the basis of a search warrant issued by the court under Rule 126 of the Rules of Criminal Procedure are in custodia legis, subject to the control and disposition of the court that issued the search warrant. The court may not be divested of its jurisdiction over the goods by a warrant of seizure and detention issued by the Collector of Customs; and of its jurisdiction to dispose and release the goods as the Constitution, the law and the Rules of Criminal Procedure so mandate.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The Decision of the Court of Appeals is AFFIRMED. No costs.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Associate Justice Oscar M. Herrera with Associate Justices Salome A. Montoya and Eubulo G. Verzola concurring.

[2] Penned by Judge Santiago G. Estrella.

[3] Penned by Judge Manuel L. Villamayor.

[4] Records, p. 1.

[5] Rollo, p. 59.

[6] Records, pp. 5-6.

[7] Id. at 9.

[8] Rollo, pp. 62-63.

[9] Records, p. 10.

[10] Id. at 7.

[11] Id. at 18.

[12] Id. at 21.

[13] Entitled Republic of the Philippines v. Smuggled Electronic Devices and Equipment, per Turn-Over Receipt dated August 14, 1992 and seized by the CAPCOM officers on August 14, 1992; Rollo, p. 46.

[14] Records, p. 27.

[15] Id. at 31-32.

[16] Id. at 34.

[17] Id.

[18] Id. at 65.

[19] Id. at 37.

[20] Id. at 47.

[21] Id. at 50.

[22] Id. at 56-57.

[23] Id. at 59.

[24] Id. at 60.

[25] Id. at 121-122.

[26] Id. at 64-65.

[27] Id. at 65-66.

[28] CA Rollo, pp. 54-55.

[29] Records, pp. 231-232.

[30] Rollo, pp. 72-73.

[31] Rollo, p. 73.

[32] Id. at 76.

[33] Records, pp. 392-393.

[34] CA Rollo, pp. 24-25.

[35] Id. at 95.

[36] *People v. Gesmundo*, 219 SCRA 743 (1993).

[37] *State v. Jacobs*, 32 N.E.2d. 574 (1940).

[38] *Tambasen v. People*, 246 SCRA 184 (1995).

[39] *People v. Gesmundo*, *supra*.

[40] *Supra*. The search warrant was issued before the Revised Rules of Criminal Procedure took effect on December 1, 2002.

[41] *Bagalihog v. Fernandez*, 198 SCRA 614 (1991).

[42] *People v. Gesmundo*, *supra*; *Templo v. Dela Cruz*, 60 SCRA 295 (1974); *Pagkalinawan v. Gomez*, 21 SCRA 1275 (1967); and *United States v. Mchie*, 194 Federal Reports, 894 (1912).

[43] *Rollo*, p. 54.

[44] *Malalaoan v. Court of Appeals*, 232 SCRA 249 (1994).

[45] *Vlasons Enterprises, Inc. v. Court of Appeals*, 155 SCRA 186 (1997); *Washington Distillers, Inc. v. Court of Appeals*, 260 SCRA 821 (1996).

[46] *Rollo*, pp. 55-57.

[47] 101 SCRA 87 (1980).

[48] Id. at 103, citing *Viduya v. Berdiago*, 73 SCRA 553 (1976).

[49] Id.

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