

THE COMMISSIONER OF CUSTOMS, PETITIONER, VS. AUYONG HIAN (HONG WHUA HANG) RESPONDENT.

G.R. No. 11719. April 29, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On June 12, 1953, respondent was issued by the Import Control Commission License No. 16679 giving him authority to import goods under "no dollar remittance basis." On the strength of said license, he effected the importation of old newspapers in four shipments: the first in July, 1953, the second in September, 1953, the third in May, 1954 and the fourth in November, 1954. The Last shipment arrived in Manila on November 7, 1954 and the same was seized by the customs authorities on the ground that the importation was made without the license required by Central Circular No. 45. While the seizure case was pending before the Collector of Customs, the President of the Philippines, acting through his Cabinet, in a meeting held on January 26, 1955, cancelled the aforesaid License No. 16679 on the ground that it was illegally issued "in that no fixed date of expiration is stipulated."

After considering the case relative to the seizure of the shipment, the Collector of Customs found that the same was not covered by a valid license as required by Central Bank Circular No. 45 and, consequently, he decreed its forfeiture to the Government. Not satisfied with his decision, respondent appealed to the Commissioner of Customs, who affirmed the decision of the Collector of Customs. In due time, respondent appealed to the Court of Tax Appeals by filing a petition for review. The Court of Tax Appeals, after due hearing, rendered decision reversing the decision of the Commissioner of Customs and ordering the cancellation of the surety bond filed in substitution of the shipment. This is an appeal from said decision.

It appears that the shipment in question was imported by respondent on the strength of Import License No. 16679 issued by the Import Control Commission on June 12, 1953 under Republic Act No. 650. The shipment arrived in Manila on November 7, 1954 and immediately was seized by the customs authorities on the ground that it is not covered by a license as required by Central Bank Circular No. 45. It also appears that after said shipment arrived in Manila and while the seizure case was pending investigation by the Commissioner of Customs, the Cabinet in a meeting held on January 26, 1955, cancelled the aforesaid license on the only ground that "no fixed date of expiration is stipulated therein." The issue now to be determined is, is this cancellation justified. It is not disputed that the Cabinet may under the law pass on the validity of any license that may be issued by the Import Control Commission. It may also action as may be taken by the President. This is clearly inferred from Section 2, Republic Act No. 650 which provides that the import license therein authorized shall be issued by the President through any instrumentality he may choose to assist him in carrying out the provisions of said Act and that such instrumentality can question the validity of the license so issued, the only limitation being that the same may be appealed to the President. In other words, it is only the President, on appeal, who can determine the validity of any license that may be issued by the Import Control Commission. It may also be admitted that the President can act through his Cabinet and that the acts of the latter may be considered as those of the former unless they are

disapproved.[1] But while the Cabinet, acting for the President, can pass on the validity of a license issued by the Import Control Commission, that power cannot be arbitrarily exercised. The action must be founded on good ground or reason and must not be capricious or whimsical. This principle is so clear to require further elaboration.

Was this power properly exercised in the instant case. The answer must of necessity be in the negative, for it appears that the license issued to respondent to import the shipment in question was cancelled on the only ground that it does not bear any expiry date even if the importation had already been made and the shipment had already reached the port of Manila. Had the license been cancelled on the ground before the importation had been effected, the same may be justified, for indeed a license as a rule must be limited in point of time, but not when the importation has been accomplished and the importer had made commitments with the dealer and assumed other obligations incident thereto. In fact, if the cancellation were to prevail, the importer would stand to lose the license fee he paid amounting to P12,000.00, plus the value of the shipment amounting to P21,820.00. This is grossly inequitable. Moreover, "it has been held in a great number of cases that a permit or license may not arbitrarily be revoked * * * where, on the faith of it, the owner has incurred material expense." [2]

It has also been held that "where the licensee has acted under the license in good faith, and has incurred expense in the execution of it, by making valuable improvements or otherwise, it is regarded in equity as an executed contract and substantially an easement, the revocation of which would be a fraud on the licensee, and therefore the licensor is estopped to revoke it, * * *. It has also been held that the license cannot be revoked without reimbursing the licensee for his expenditures or otherwise placing him in status quo." (53 C. J. S., 816-817) Having reached the conclusion that the license of respondent has been improperly cancelled, there is no need for him to obtain another license under Central Bank Circular No. 15. Consequently, the seizure of said shipment is unjustified.

Wherefore, the decision, appealed from is affirmed, without costs.

Paras, C. J., Padilla, Montemayor, Reyes, A., Labrador and Endencia, JJ., concur.
Bengzon, J., concurs in the result.

[1] Villena vs. Secretary of Interior, 67 Phil., 451, 453; Mare Donnelly & Associates, Inc. vs. Agregado, et al., 95 Phil., 142.

[2] Francis Dainese vs. The Board of Public Works of the District of Columbia, 91 U. S., 580, 23 L. ed. 251; Pratt vs. City and County of Denver, et al., 209 P. 508; Williams vs. Smith, 230 P. 395; See also Williams vs. Smith, 238 P. 40; City of Lowell vs. Amadee Archambault, 1 L. R. A. (NS) 458; Lerch vs. City of Duluth, 92 N. W. 1116; City of Buffalo vs. Chadeayne, 31 N. E. 442; Dobbins vs. City of Los Angeles, 49 L. ed., 169.

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