

**SMITH, BELL & CO. (LTD.), PLAINTIFF AND APPELLANT, VS.
INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.**

G.R. No. 12919. November 01, 1917

Ponente: JOHNSON, J.

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JOHNSON, J.:

The only question presented by this appeal is whether or not a judge of the Court of First Instance, in actions like the present, on an appeal from the decision of the Collector of Customs, may modify the decision of the Collector of Customs and render a judgment in accordance with his findings of fact.

It appears from the record that the steamship Chinese Prince, belonging to the "Prince Line," arrived at Manila on the 7th day of July, 1916, with 2,012 packages of Philippine cargo which was a less number of packages than was manifested for delivery at the port of Manila. When the Collector of Customs was informed that all of the cargo manifested for the port of Manila had not been delivered, the master of the said steamship was cited to appear and show cause why his ship should not be seized for his failure to deliver such cargo, and why he should not be required to pay a fine for such failure, in accordance with section 1506 of Act No. 2657 (The Administrative Code; sec. 303 of Act No. 355). A hearing was had, at the conclusion of which the Collector of Customs found that the master of said steamship had been negligent in not delivering said cargo, and imposed upon said steamship a fine of P25 for each package manifested and not delivered. From that order the plaintiff appealed to the Court of First Instance. The Court of First Instance, after hearing the evidence adduced before it, modified the order of the Collector of Customs and imposed a fine of 50 centavos for each and every package not delivered, together with costs. From that judgment both the plaintiff and defendant appealed to this court.

The defendant, in his appeal, presents the question above indicated. The plaintiff prays that the judgment of the Court of First Instance be affirmed.

Section 1534 of said Act (No. 2657) provides that—

"The party aggrieved by the decision of the Insular Collector in any matter brought before him upon protest or by his action or decision in any case of seizure may procure the cause to be removed for review into the Court of First Instance sitting in the city of Manila."

Section 1542 of said Act (No. 2657) provides that—

"A customs cause removed into the Court of First Instance * * * shall be determined upon the record, including the competent proof already taken, and such other evidence as either party may see fit to adduce—all subject to the same right of exception and appeal to the Supreme Court, by either party, as in other cases."

By said quoted sections it will be seen—(a) That the Courts of First Instance may review the decisions of the Collector of Customs in any case of seizure, in cases like the present; and (b) that the Courts of First Instance shall determine the questions presented by the record, together with such other evidence as either party may see fit to adduce. The parties to the appeal are, therefore, permitted to adduce additional proof in the Court of First

Instance. If they may adduce additional proof, then the facts presented to the Court of First Instance may be very different, or at least greatly modified, from the facts presented to the Collector of Customs. And if the facts which are presented to the Court of First Instance may be different from the facts presented before the Collector of Customs, and if the Court of First Instance shall determine the issues upon the record, including additional evidence, then certainly the Legislature intended by said sections 1534 and 1542 that the Court of First Instance should render a judgment upon such facts, without any reference to the decision of the Collector of Customs, except perhaps as it might be influenced by the findings of fact by the Collector of Customs.

The rule that the conclusions of the Collector of Customs are final and conclusive unless an abuse of authority is shown does not apply to cases like the present. The law expressly provides that his findings and conclusions may be reviewed by the courts, and that the courts may not only consider the evidence adduced before him, but may hear additional proof and may render a judgment in accordance with the facts adduced in the Court of First Instance.

No question is presented in the present case concerning the sufficiency of the evidence adduced during the hearing in the Court of First Instance to support the conclusion of the lower court. It is unnecessary, therefore, to discuss the evidence.

The doctrine here announced with reference to the right of the court to decide the question presented by the appeal must not be confused with the doctrine of the finality of the decision of the Collector of Customs upon the question of the value of imported merchandise nor with that of the finality of his conclusion in immigration cases.

For the foregoing reasons, the judgment of the Court of First Instance is hereby affirmed, with costs. So ordered.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, JJ., concur.

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