

THE BUREAU OF CUSTOMS (BOC) AND THE ECONOMIC INTELLIGENCE AND INVESTIGATION BUREAU (EIIB), PETITIONERS, VS. NELSON OGARIO AND MARK MONTELIBANO, RESPONDENTS. D E C I S I O N

G.R. No. 138081. March 30, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

The question for decision in this case is whether the Regional Trial Court has jurisdiction to enjoin forfeiture proceedings in the Bureau of Customs. In accordance with what is now settled law, we hold it does not.

The facts are as follows: On December 9, 1998, Felipe A. Bartolome, District Collector of Customs of Cebu, issued a Warrant of Seizure and Detention^[1] of 25,000 bags of rice, bearing the name of "SNOWMAN, Milled in Palawan" shipped on board the M/V "Alberto," which was then docked at Pier 6 in Cebu City. The warrant was issued on the basis of the report of the Economic Intelligence and Investigation Bureau (EIIB), Region VII that the rice had been illegally imported. The report stated that the rice was landed in Palawan by a foreign vessel and then placed in sacks marked "SNOWMAN, Milled in Palawan." It was then shipped to Cebu City on board the vessel M/V "Alberto." Forfeiture proceedings were started in the customs office in Cebu, docketed as Cebu Seizure Identification Case No. 17-98.

On December 10, 1998, respondent Mark Montelibano, the consignee of the sacks of rice, and his buyer, respondent Elson Ogario, filed a complaint for injunction (Civil Case No. CEB-23077) in the Regional Trial Court of Cebu City, alleging:

4.) That upon arrival of the herein-mentioned sacks of rice at the PIER 5 of Cebu City, Philippines on the 7th day of December 1998 all of the defendants rushed to the port with long arms commanding the plaintiff's laborer[s] to stopped [sic] the unloading of the same from the vessel named M/V Alberto. The defendants alleged that the herein-mentioned rice were [sic] smuggled from abroad without even proof that the same were [sic] purchased from a particular country.

5.) By the mere suspicion of the defendants that the goods were smuggled from abroad, they immediately put on hold the release of the goods from the ship and at the same time they jointly barred unloading and loading activities of the plaintiffs' laborers of the herein-mentioned rice.

6.) The plaintiffs then presented all the pertinent and necessary documents to all of the defendants but the latter refused to believe that the same is from Palawan because their minds are closed due to some reason or another [while] the plaintiffs believed that the same is merely an act of harassment. The documents are as follows: Jjjä uris

A.) Certification from the National Food Authority that the same is from Palawan. This is hereto attached as Annex A.

B.) Bill of Lading issued by ANMA PHILIPPINES Shipping Company. This is hereto attached as Annex B.

7.) The acts of the defendants in stopping the loading and unloading activities of the plaintiff's laborers [have] no basis in law and in fact; thus, unlawful and illegal. A mere suspicion which is not coupled with any proof or evidence to that effect is [a] matter which the law prohibits.

8.) That for more than three days and despite the repeated plea of the plaintiffs that their goods should be released to them and the defendants should stop from barring the unloading and loading activities, the latter blindly refused [to] heed the same.

9.) That the acts of all of the defendants which are greatly unlawful and erroneous would caused [sic] irreparable damage, injury, and grave injustice to the plaintiffs.

10.) That by way of example or correction for the public good and to deter the defendants from doing the same acts to other businessmen, defendants should be held liable for exemplary damages in the amount of not less than One Hundred Thousand Pesos (P100,000.00).

11.) That the plaintiffs are entitled to the relief prayed in this complaint and the whole or part of such reliefs consist in restraining perpetually the defendants from holding the herein-mentioned twenty-five thousand sacks of rice. That defendants should be restrained perpetually from barring the unloading and loading activities of the plaintiffs' laborers.

12.) That allowing the defendants to continue their unlawful acts would work grave injustice to the plaintiffs. Unless a preliminary injunction be granted ex-parte, grave and irreparable injury and damage would result to the plaintiffs before the latter can be heard on notice.

13.) That if the defendants be not restrained perpetually from their unlawful acts, the herein-mentioned rice will deteriorate and turn into dusts [sic] if not properly disposed.

14.) That a Warrant of Seizure and detention issued by the Collector of Custom[s] dated December 9, 1998 be quashed because the defendants' act of seizing and detaining the herein-mentioned sacks of rice are illegal. The continuing act of detaining the herein-mentioned sacks of rice will lead to the deterioration of the same. That no public auction sale of the same should be conducted by the Bureau of Custom[s] or any government agenc[y].

15.) That plaintiffs are ready and willing to file a bond executed to the defendants in an amount to be fixed by this Honorable Court to the effect that plaintiffs will pay to the defendants all damages which they may sustain by reason of the injunction if this Honorable Court should finally decide that the plaintiffs are not entitled thereto.

PRAYER

WHEREFORE, Premised on the foregoing, it is most respectfully prayed before this Honorable Court that a restraining order or temporary injunction be immediately issued prohibiting the defendants from holding plaintiffs' above-mentioned goods. That it is further prayed that a restraining order or temporary injunction be issued prohibiting the defendants from barring the unloading and loading activities of the plaintiffs' laborers. Further, the plaintiffs prayed that the warrant of seizure and detention issued by the Collector of Custom[s] dated December 9, 1998 be quashed and no public auction sale of the same should be conducted by any government agency or authority.

It is further prayed that after due hearing, judgment be rendered:

- 1.) Making the restraining order and/or preliminary injunction permanent.
- 2.) Ordering the defendants jointly to pay exemplary or corrective damages to the plaintiff[s] in the amount of

One Hundred Thousand Pesos (P100,000.00)

Such other relief which are just and demandable under the circumstances are also prayed for.[2]

In separate motions, petitioners Bureau of Customs (BOC), Port of Cebu[3] and the EIIB, as well as the Philippine Navy and Coast Guard, sought the dismissal of the complaint on the ground that the RTC had no jurisdiction, but their motions were denied. In its resolution, dated January 11, 1999, the RTC said:

The Warrant of Seizure and Detention issued by the Bureau of Customs cannot divest this court of jurisdiction since its issuance is without legal basis as it was anchored merely on suspicion that the items in question were imported or smuggled. It is very clear that the defendants are bereft of any evidence to prove that the goods were indeed imported or smuggled, that is why the plaintiffs have very vigorously protested against the seizure of cargoes by the defendants. In fact, as revealed by defendants' counsel, the Warrant of Seizure and Detention was issued merely to shift the burden of proof to the shippers or owners of the goods to prove that the bags of rice were not imported or smuggled. However, the court feels this is unfair because the settled rule is that he who alleges must prove the same. Besides, at this time when our economy is not good, it would be a [dis]service to the nation to use the strong arm of the law to make things hard or difficult for the businessmen.[4]

The 25,000 bags of rice were ordered returned to respondents upon the posting by them of an P8,000,000.00 bond.

Petitioners BOC and EIIB moved for a reconsideration, but their motion was denied by the RTC in its order dated January 25, 1999.[5] In the same order, the RTC also increased the amount of respondents' bond to P22,500,000.00. On certiorari to the Court of Appeals, the resolution and order of the RTC were sustained.[6]

Accordingly, on April 26, 1999, upon motion of respondents, the RTC ordered the sheriff to place in respondents' possession the 25,000 bags of rice.

Meanwhile, in the forfeiture proceedings before the Collector of Customs of Cebu (Cebu Seizure Identification Case No. 17-98), a decision was rendered, the dispositive portion of which reads:

WHEREFORE, by virtue of the authority vested in me by law, it is hereby ordered and decreed that the vessel M/V "Alberto"; the 25,000 bags of rice brand "Snowman"; and the two (2) trucks bearing Plate Nos. GCC 844 and GHZ 388 are all FORFEITED in favor of the government to be disposed of in the manner prescribed by law while the seven (7) trucks bearing Plate Nos. GFX 557; GFX 247; TPV 726; GBY 874; GVE 989; and GDF 548 are RELEASED in favor of their respective owners upon proper identification and compliance with pertinent laws, rules and regulations.

Since this decision involves the release of some of the articles subject matter of herein case which is considered adverse to the government, the same is hereby elevated to the Commissioner of Customs for automatic review pursuant to Republic Act 7651.[7]

The District Collector of Customs found "strong reliable, and convincing evidence" that the 25,000 bags of rice were smuggled. Said evidence consisted of certifications by the Philippine Coast Guard, the Philippine Ports Authority, and the Arrastre Stevedoring Office in Palawan that M/V "Alberto" had never docked in Palawan since November, 1998; a certification by Officer-in-Charge Elenita Ganelo of the National Food Authority (NFA) Palawan that her signature in NFA Grains Permit Control No. 00986, attesting that the 25,000 bags of rice originated from Palawan, was forged; and the result of the laboratory analysis of a sample of the subject rice by the International Rice Research Institute (IRRI) stating that the sample "does not compare with any of our IRRI released varieties."

Respondent Montelibano did not take part in the proceedings before the District Collector of Customs despite due

notice sent to his counsel because he refused to recognize the validity of the forfeiture proceedings.[8]

On April 30, 1999, petitioners filed the present petition for review on certiorari of the decision of the Court of Appeals, dated April 15, 1999, upholding the resolution of the RTC denying petitioners' motions to dismiss. They contend that:

- SINCE THE REGIONAL TRIAL COURT OF CEBU CITY DOES NOT HAVE JURISDICTION OVER THE SUBJECT MATTER OF THE INSTANT CONTROVERSY, AND THE BUREAU OF CUSTOMS HAD ALREADY EXERCISED EXCLUSIVE ORIGINAL JURISDICTION OVER THE SAME, THE COURT OF APPEALS SERIOUSLY ERRED IN SUSTAINING THE EXERCISE BY THE TRIAL JUDGE OF JURISDICTION OVER THE CASE BELOW AND IN AFFIRMING THE TRIAL JUDGE'S RESOLUTION DATED JANUARY 11, 1999 AND ORDER DATED JANUARY 25, 1999 IN CIVIL CASE NO. CEB-23077.

- SINCE RESPONDENTS HAVE NOT EXHAUSTED ALL THE ADMINISTRATIVE REMEDIES PROVIDED FOR BY LAW, THE COURT OF APPEALS SERIOUSLY ERRED IN UPHOLDING THE TRIAL JUDGE'S DENIALS OF PETITIONERS' SEPARATE MOTIONS TO DISMISS AND MOTIONS FOR RECONSIDERATION.[9]

In *Jao v. Court of Appeals*,[10] this Court, reiterating its ruling in a long line of cases, said:

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. 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.

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.

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 cite the statement of the Court of Appeals that regular courts still retain jurisdiction "where, as in this case, for lack of probable cause, there is serious doubt as to the propriety of placing the articles under Customs jurisdiction through seizure/forfeiture proceedings." [11] They overlook the fact, however, that under the law, the question of whether probable cause exists for the seizure of the subject sacks of rice is not for the Regional Trial Court to determine. The customs authorities do not have to prove to the satisfaction of the court that the articles on board a vessel were imported from abroad or are intended to be shipped abroad before they may exercise the power to effect customs' searches, seizures, or arrests provided by law and continue with the administrative hearings.[12] As the Court held in *Ponce Enrile v. Vinuya*: [13]

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 above decisions the law has not seen fit to do so. The proceeding before the Collector of Customs is not final. An appeal lies to the Commissioner of Customs and thereafter to the Court of Tax Appeals. It may even reach this Court through the appropriate petition for review. The proper ventilation of the legal issues raised is thus indicated. Certainly a court of first instance is not therein included. It is devoid of jurisdiction.

It is noteworthy that because of the indiscriminate issuance of writs of injunction, the Supreme Court issued on June 25, 1999 Administrative Circular No. 07-99 to all judges of lower courts entitled re: exercise of utmost caution, prudence, and judiciousness in issuance of temporary restraining orders and writs of preliminary injunction. The circular states in part:

Finally, judges should never forget what the Court categorically declared in *Mison v. Natividad* (213 SCRA 734, 742 [1992]) that "[b]y express provision of law, amply supported by well-settled jurisprudence, the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceedings, and regular courts cannot interfere with his exercise thereof or stifle or put it to naught."

The Office of the Court Administrator shall see to it that this circular is immediately disseminated and shall monitor implementation thereof.

STRICT OBSERVANCE AND COMPLIANCE of this Circular is hereby enjoined.

WHEREFORE, the temporary restraining order issued on May 17, 1999 is hereby made permanent. The decision, dated April 15, 1999, of the Court of Appeals is REVERSED and Civil Case No. CEB-23077 in the Regional Trial Court, Branch 5, Cebu City is DISMISSED.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Petition, Annex C; Rollo, pp. 76-77.

[2] Id., Annex D; id., pp. 79-82.

[3] Id., Annex E; id., pp. 84-88.

[4] Id., Annex G, p. 4; id., p. 98.

[5] Id., Annex H; id., pp. 99-101.

[6] Decision, dated April 15, 1999, per Associate Justice Artemio Y. Tuquero and concurred in by Associate Justices Eubolo G. Verzola and Mariano M. Umali.

[7] Petition, Annex I; Rollo, pp. 112, 114--115.

[8] Petition, p. 8; id., p. 110.

[9] Id., p. 16; id., p. 22.

[10] 249 SCRA 35, 42-43 (1995).

[11] Petition, Annex A, p. 11; Rollo, p. 74.

[12] *Rigor v. Rosales*, 117 SCRA 780, 784 (1982).

[13] 37 SCRA 381, 388-389 (1971) (emphasis added), reiterated in *Jao v. Court of Appeals, supra* and *Mison v. Natividad*, 213 SCRA 734 (1992).

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