

**GENERAL TRAVEL SERVICE, LTD., PETITIONER AND APPELLANT,
VS. EDILBERTO Y. DAVID, PERSONALLY AND AS COLLECTOR OF
CUSTOMS OF THE MANILA INTERNATIONAL AIRPORT, RESPONDENT
AND APPELLEE.**

G.R. No. 19259. September 23, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal from the decision of the Court of First Instance of Rizal dismissing the petition for prohibition and mandamus filed by General Travel Service, Ltd., against Edilberto Y. David, in his private capacity and as Collector of Customs at the Manila International Airport.

The petition alleges: that on August 25, 1961 an SAS plane and a KLM plane from Bangkok arrived at the Manila International Airport bringing, among other things, eight big packages owned by petitioner, a limited partnership duly organized and existing under the laws of the British Crown Colony of Hongkong; that respondent ordered the unloading of said packages over the objection of local representatives of the two airlines, who explained that the packages had been mistakenly brought to the Philippines (from Hongkong via Bangkok) and requested respondent that they be returned to the airport of origin; that upon learning of respondent's intention to open, inspect and inventory the packages, petitioner, through counsel, wrote a letter to respondent on August 28, 1961, requesting that their immediate reshipment be permitted; and that since the packages had not been imported but were erroneously brought to the Philippines, respondent gravely abused his discretion in ordering their unloading, opening and inspection. Petitioner, therefore, prayed that a writ of preliminary injunction be issued, but the remedy became moot because in the meantime all the packages had been opened.

Respondent, in his answer, alleges: that he did not order the unloading of the eight packages, but the airlines employees voluntarily unloaded them because they bore the names of consignees with Manila addresses, as shown by the plane cargo manifest of the SAS plane which carried seven packages and of the cargo manifest of the KLM plane which carried the eighth package; that said packages were covered by false declarations and papers, for while they were declared in the cargo manifests and air waybills as containing frozen goods intended for Manila, they were found upon examination to contain highly dutiable articles in commercial quantities [1] and of the kind not specified in either the cargo manifests or the air waybills, for which reason the corresponding seizure proceedings were instituted for violation of Section 2530 (i), (m)-3, and (m)-4 of the Tariff and Customs Code and of Circular No. 96, as amended by Circular No. 123, of the Central Bank, in relation to Section 2530(f) of the same code; that respondent Collector of Customs may not be prohibited from taking cognizance of such seizure proceedings, nor may he be compelled to allow the return of the packages since he has jurisdiction over all matters arising from the enforcement of tariff and customs laws within his collection district, his decision being subject to review only by the Commissioner of Customs, whose decision is in turn appealable only to the Court of Tax Appeals; that Republic Act No. 1125 has removed from the Courts of First Instance the power to review the decisions of customs authorities; and that since petitioner has not been organized and registered under our laws, it

has no legal capacity to sue, and even if it had, it is not the proper party-petitioner because it does not own the packages, not being either the consignee or shipper thereof, the air waybills showing that Ana D. Riana, Hector Reyes, Barbara Mallari and Milagros Isip, all of Manila, Philippines, were the consignees of two packages each, while the corresponding shippers were R.B. Henson, Peferlia Roberts, T.H. Leung and David Todd, all of Melbourne Hotel, Kowloon.

Subsequently, T.H. Leung, David Todd, Peferlia Roberts and R.B. Henson moved for permission to file an amended petition, substituting themselves for the original petitioner since they were the real owners of the eight packages in question, the original petitioner having merely handled the shipment for them.

In the decision appealed from the lower court denied the motion for amendment and dismissed the petition. Petitioner appealed to this Court and now avers that the lower court erred in holding: (1) that the eight packages were imported into the Philippines; (2) that consequently respondent had the right to seize and hold them until the duties and taxes due thereon shall have been paid; (3) that respondent had the authority to determine whether or not the packages had been imported, his ruling being appealable only to the Commissioner of Customs and thence to the Court of Tax Appeals; and (4) that the original petitioner is an entity separate and apart from the persons named in the amended petition, and hence the amendment prayed for was improper.

Whether or not appellee acted with grave abuse of discretion amounting to lack and/or excess of jurisdiction in ordering the seizure and forfeiture of the packages depends ultimately on whether or not the packages in question were imported into the Philippines within the meaning of the Customs Laws.

According to Section 1202 of the Tariff and Customs Code, "importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with the intention to unload therein x x x and is deemed terminated upon payment of the duties, taxes, and other charges due upon the articles, or secured to be paid at a port of entry and the legal permit for withdrawal shall have been granted, or x x x until they have legally left the jurisdiction of the customs."

It is undisputed that the eight packages arrived at the Manila International Airport on August 25, 1961. The cargo manifests of the planes carrying them show that they were destined for the Philippines. [2] The air waybills covering the packages were of the same import. The appellee, therefore, was justified in considering said packages as having been imported into the Philippines.

The functions of the Bureau of Customs include the assessment and collection of the lawful revenues from imported articles and all other dues, fees, charges, fines and penalties accruing under the tariff and customs laws; and the prevention and suppression of smuggling and other frauds upon the customs. [3] It is the duty of the Collector of Customs to cause all articles entering the jurisdiction of his district and destined for importation through his port to be entered at the customhouse, to have all such articles appraised and classified, and to assess and collect the duties, taxes and other charges thereon, and have possession of all imported articles upon which duties, taxes, and other charges have not been paid or received to be paid, disposing of the same according to law. [4] For the enforcement of the customs and tariff laws, he is authorized to effect searches and seizures conformably with the provisions of said laws. [5] It shall be his duty to make seizure of any article when the same is subject to forfeiture. [6] A package or article is subject to forfeiture if it is found by the examining official to contain any article not specified in the invoice or entry, provided the Collector is of the opinion that the misdirection was caused with fraudulent intent; or if it was sought to be imported on the strength of a false declaration or affidavit, or a false invoice or other document, executed by the owner, importer, exporter or consignee concerning the importation. [7]

The facts and circumstances relative to the arrival here of the eight packages afforded sufficient basis for

respondent Collector to conclude that they had been imported to this country; and since there was indubitable proof of wrongful declaration it was clearly within his power to order their seizure and forfeiture. This case has no similarity with *U.S. v. Chua Loy* (37 Phil. 510) cited by petitioner. In that case, there was no evidence of intention to import, all indications being to the contrary. [8]

Appellant maintains that the evidence of intention to import has been counteracted by the notice of wrong shipment served by the airlines representatives upon appellee when the goods were unloaded, coupled with the request that the packages be returned or shipped back to the airport of origin. Such notice and request were reiterated in the formal letter sent to appellee on August 28, 1961. As proof of erroneous shipment, appellant points to the circumstances: (1) that the supposed consignees of the packages never claimed them for entry through the airport customhouse as required by Section 1201 of the Tariff and Customs Code; and (2) that the packages were found to contain dry goods and other articles instead of "frozen goods" as their labels indicated. Circumstance No. 1 was the logical result of the timely discovery of the misdeclaration; and circumstance No. 2, if anything, was precisely the justification for the seizure proceedings. In any event, it was within the appellee's authority to determine whether or not the bare notice of wrong shipment served upon him was sufficient to overcome the convincing objective evidence of importation on which he acted. We are not prepared to say that in acting as he did he committed a grave abuse of discretion correctible by the extraordinary remedy of prohibition, or so far failed to perform a duty especially enjoined by law as to be subject to mandamus. Otherwise the exercise of the powers and functions vested by law in the Bureau of Customs in order to prevent smuggling could be easily frustrated. [9]

If appellant believed that appellee's conclusion was erroneous, the remedy was by appeal to the Commissioner of Customs, and then to the Court of Tax Appeals should the Commissioner uphold appellee's decision. The Tax Court has exclusive appellate jurisdiction to review the action of the Commissioner in seizure and confiscation cases such as this one. And that power is to the exclusion of the Court of First Instance, which may not interfere with decisions of the Commissioner even in the form of proceedings for certiorari, prohibition or mandamus, which are in reality attempts to review the Commissioner's actuations (*Millarez v. Amparo*, 98 Phil. 282; *Namarco v. Macadaeg*, 98 Phil. 185; *Pepsi-Cola Bottling Company of the Philippines, Inc. v. Manahan*, L-12096, April 30, 1959; *Acting Collector of Customs vs. De la Rama Steamship Co., Inc.*, L-20676, February 26, 1965.)

WHEREFORE, the decision appealed from is affirmed, with costs against the appellant.

Concepcion, C.J., Reyes, JBL, Barrera, Dizon, Bengzon, JP, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.
Regala, J., no part.

[1] Transistors, clocks, men's and ladies' banlon sweaters, socks, fountain pens, watches, bags, purses, buckles, belts, nylon articles, bracelets, pipes, lighters, etc.

[2] Section 1105 of the Tariff and Customs Code provides that for the purpose of making entry, there shall be presented to the customs boarding official four copies of a general declaration which shall contain among others: A cargo manifest together with information as to names of consignees, their nationalities and their addresses, numbers and marks of packages, nature of goods, destination, gross weight and value; and that the cargo manifest shall in no case be changed or altered after entry of the aircraft, except by means of an amendment by the pilot in command or authorized agent thereof, under oath, and attached to the original manifest: Provided, however, that after the invoice and/or entry covering an importation have been received and recorded in the office of the appraiser, no amendment shall be allowed, except when it is obvious that a clerical error or any other discrepancy has been committed without any fraudulent intent in the preparation of the manifest, discovery of which could not

have been made until after examination of the importation has been completed.

[3] Section 602, paragraphs (a) and (b), Tariff and Customs Code.

[4] Section 1206, Tariff and Customs Code.

[5] Section 2203, id.

[6] Section 2205, id.

[7] Section 2530, pars. i, m(3) and m(4), id.

[8] The facts of that case are: "That the steamship Castlefield, an English vessel, arrived at the port of Manila on the 15th day of August, 1917, from Saigon, Indo-China; that this was the first trip of said vessel to the port of Manila; that its accustomed trips were Hongkong to Saigon and return; that it cleared for the purpose of sailing out of the port of Manila on the 17th day of August, 1917; that the appellant was chief cook on board said vessel and had been for three trips; that said trips had been between Hongkong and Saigon; that he did not know that the vessel was coming to the port of Manila when it left Saigon a few days prior to the 15th day of August; that the 60 tins of opium in question were delivered to him at Saigon to be turned over to some one at Hongkong; that said tins were kept by him in the kitchen of said vessel until it arrived in the Philippine waters, when they were delivered to the defendant (Lee Kam) to be kept in the room of one of the officers of the vessel until after the same had sailed out of the port of Manila; that there was no attempt made to bring said opium ashore nor to discharge it at Manila, notwithstanding the fact that the vessel had been in the port for two days prior to the time when they were found in the place above indicated; that the said vessel sailed from the port of Manila on the 17th day of August 1917. Under these facts, is the appellant guilty of the illegal importation of opium? He frankly admitted that the opium was in his possession. Considering the fact that no effort was made by him to discharge said opium during the two days while the vessel was at anchor in the port of Manila, we are inclined to accept his statement that it was his intention to carry the opium in question to Hongkong and not to deliver it in the Philippine Islands, especially in view of the fact that when the vessel left Saigon he did not know that it was coming to Manila."

[9] SEC. 2210. - It shall be lawful for any official or person exercising police authority under the provisions of this Code to go aboard any vessel or aircraft within the limits of any collection district, and to inspect, search and examine said vessel or aircraft and any trunk, package, box or envelope on board, and to search any person on board the said vessel or aircraft and to this end to hail and stop such vessel or aircraft if under way, to use all necessary force to compel compliance; and if it shall appear that any breach or violation of the customs and tariff laws of the Philippines has been committed, whereby or in consequence of which such vessels or aircrafts, or the articles, or any part thereof, on board of or imported by such vessel or aircraft, is liable to forfeiture, to make seizure of the same or any part thereof.

The power of search hereinabove given shall extend to the removal of any false bottom, partition, bulkhead or other obstruction, so far as may be necessary to enable the officer to discover whether any dutiable or forfeitable articles may be concealed therein.

No proceeding herein shall give rise to any claim for the damage thereby caused to article or vessel or aircraft.

SEC. 2211. - It shall also be lawful for a person exercising authority as aforesaid to open and examine any box, trunk, envelope or other container, wherever found when he has reasonable cause to suspect the presence therein of dutiable or prohibited article or articles introduced into the Philippines contrary to law, and likewise to stop, search and examine any vehicle, beast or person reasonably suspected of holding or conveying such article as

aforesaid. (Tariff and Customs Code)

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