

NORBERTO ROMUALDEZ, JR., IN HIS CAPACITY AS COMMISSIONER OF CUSTOMS AND TEOTIMO A. ROJA, IN HIS CAPACITY AS ACT-ING COLLECTOR OF CUSTOMS, PETITIONERS, VS. HON. FRANCISCO ARCA, J...

G.R. No. 20516. November 15, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

On July 2, 1962, San Diego Fisheries Inc., leased one of its fishing boats - the "M/B Rio Grande" - for three months to Candido Mayor. Later that month, the vessel, loaded with untaxed blue seal cigarettes, was caught, along Pasig River, seized[1] and held by the Com-missioner of Customs for violation of Section 2530 (a), (b) and (c) of the Tariff and Customs Code.

Acting upon the request of San Diego Fisheries before the Collector of Customs on July 30, 1962 for the vessel's release under bond, the legal officer II of the Custom's Bureau, in a memorandum dated August 13, 1962 to the Col-lector, indorsed by the acting chief of its Law Division, recommended the release of the vessel citing two instances where under similar circumstances, the barge "Davao" and the tugboat "Delbros 18" were also released under bond.[2] The next day, the Acting Collector of Customs, Teotimo Roja, while expressing his opinion favorable to its release based on prior instances[3] where release was allowed, indorsed[4] the case to the Commissioner of Customs as a mat-ter of policy. In reply however,[5] the case was returned by the Deputy Commissioner Pablo Mariano on August 23, 1962 advising the Collector that since under Section 2301 of the Tariff and Customs Code, the Collector had the discretion over the release of the vessel, he, (the Collector) would be exercising this discretion along the administration's policy of non-release of seized vessels, if he would take custody of the vessel and expedite the seizure proceed-ings thereon. Consequently, though a formal petition for release was filed, the Acting Collector of Customs denied[6] the petition for the release of the vessel under bond.

Seeking the release of the vessel under bond and the enjoining of the cancellation of the vessel's fishing li-cense, San Diego Fisheries petitioned the Court of First Instance of Manila for Certiorari with Preliminary Manda-tory Injunction on September 27, 1962 (Civil Case No. 51709). In answer, the Commissioner of Customs alleged non-exhaustion of administrative remedies, the discretionary authority of the Collector over the release of the vessel and claimed that the court had no jurisdiction over the case, or if it had jurisdiction, the grant of preliminary injunction would render the case academic.

On October 10, 1962, the Court of First Instance issued the writ of preliminary injunction prayed for, ordered the release of the vessel upon the filing by San Diego Fisheries of a P20,000 bond and enjoined the cancellation of the fish-ing license. As the Commissioner did not release the vessel, San Diego Fisheries moved on October 12, 1962 that the Commissioner be cited for contempt.

Reiterating, among others, the court's lack of jurisdiction, non-exhaustion of administrative remedies, the use of the vessel in a crime and insufficiency of the bond, the Commissioner filed an urgent motion for reconsideration

of the court's order or to dissolve the writ of preliminary injunction and/or to suspend the effectivity of the writ. The court on November 2, 1962 denied the motion and held the contempt charge in abeyance.

In a Petition for Certiorari with Preliminary Injunction filed on November 13, 1962 before Us, the Commissioner of Customs has sought the annulment of the preliminary and mandatory injunction issued by the lower court on grounds of lack of jurisdiction, non-exhaustion of administrative remedies, use of the vessel in a crime, alleging the Collector's discretion over the release of the vessel. We enjoined on November 20, 1962 the enforcement of the preliminary mandatory injunction issued by the lower court and denied the prayer in respondent San Diego Fisheries' answer to dissolve Our injunction.

Upon the question of the lower court's jurisdiction would depend Our consideration of the other issues brought before Us.

Section 2530 of the Tariff and Customs Code lists the kinds of property subject to forfeiture and also the procedure^[7] in seizure and forfeiture cases, vesting in the Collector of Customs authority to hear and decide such cases.^[8] Thus, the Collector's decision is appealable to the Commissioner's office^[9] and then to the Court of Tax Appeals^[10] and from the latter, to the Supreme Court.^[11] This runs counter to Section 44(c) of the Judiciary Act of 1948, as amended by Republic Act 3828 which confers on the Courts of First Instance original jurisdiction in all cases in which the value of the property in controversy amounts to more than ten thousand pesos. In *Pacis v. Averia*, L-22526, November 29, 1966, We already held and We herein reiterate that the jurisdiction of the Collector of Customs should prevail because aside from the fact that Republic Act 1937 was a later law, having taken effect in 1957, on grounds of public policy, it is more reasonable to conclude that the legislators intended to deprive the Courts of First Instance of their authority to intervene with property subject of a seizure and forfeiture proceedings for violation of the Tariff and Customs Code. Besides, We said Section 2303 of the same code requires the Collector of Customs to give the property owner written notice of the seizure and of his opportunity to present his defense. This provision is clearly indicative of the law's intent to confine in the Bureau of Customs the determination of all questions affecting the disposal of property in a seizure and forfeiture case, subject to the judicial remedy of the property owner, not in the Court of First Instance but in the Court of Tax Appeals - and only after exhausting administrative remedies in the Bureau of Customs.

It is not tenable to argue, as respondent San Diego does, that Section 7 of Republic Act 1125 requiring an appeal to the Court of Tax Appeals cannot apply because there was no decision by the Commissioner of Customs yet. This even argues against respondent's cause, for the absence of the decision of the Commissioner shows that the party affected did not exhaust administrative remedies available,^[12] i.e., appeal to the Commissioner of Customs.

Considering the absence of jurisdiction on the part of the lower court to take cognizance of the case, We find it unnecessary to deal with the other issues raised.

WHEREFORE, the petition for certiorari is hereby granted and the Court of First Instance of Manila is declared without jurisdiction over its Civil Case No. 51709, and Our preliminary injunction heretofore issued is hereby made permanent. Double costs against San Diego Fisheries, Inc.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] Seizure Identification No. 6507.

- [2] Annex C, p. 35 of the record.
- [3] Particularly, the discharge of S/S "Mentor" and the barge "Davao".
- [4] Annex D, p. 36 of the record.
- [5] Annex E, p. 37 of the record.
- [6] Annex D of the Petition, p. 40 of the record.
- [7] Part 2 of Title VI thereof.
- [8] Sec. 2312, Republic Act 1937.
- [9] Sec. 2313, Republic Act 1937.
- [10] Sec. 2402, Republic Act 1937; Secs. 7 & 11, Republic Act 1125.
- [11] Sec. 18, Republic Act 1125; Rule 44, Rules of Court.
- [12] Acting Collector of Customs v. Caluag, L-23925, May 4, 1967.

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