

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. IGNACIO DESIDERIO, DEFENDANT AND APPELLEE.

G.R. No. 20805. November 29, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

As one of the three pillars of our Republic, the Judiciary has a role to play in giving life to the public policy against smuggling. It has a share in the governmental effort to eradicate such pernicious malady, which imperils the nation's economy, stifling the incentives of our businessmen and degrading the morality of our citizenry, as it breeds corruption in the officialdom. Such role is invoked in the present case, within the Judiciary's own sphere of action.

From an order dismissing, upon a motion to quash, an information for violation of Section 3601 of Republic Act 1937, the Solicitor General has appealed.

The information was originally filed on February 17, 1958, in the Municipal Court, and subsequently on May 3, 1958, in the Court of First Instance of Zamboanga City. It charged that Ignacio Desiderio, on or about November 28, 1958, in Zamboanga City, "did then and there willfully, unlawfully and feloniously possess, receive, conceal, buy, sell (after illegal importation) eleven (11) cases and twenty (20) cartons of Chesterfield cigarettes and eleven (11) cartons of Camel cigarettes of foreign brand and manufactured in a foreign country, knowing that the same have been imported contrary to law".

A plea of not guilty was entered by the accused. On June 27, 1961, however, said accused presented a motion to quash on the ground that his criminal liability had been extinguished by a compromise agreement with the Collector of Customs, on February 10, 1958, in accordance with Section 2307 of the same Republic Act 1937. After considering the arguments, pro and con, on said motion, the Court granted the same in its order of October 11, 1962, dismissing the case. Stated briefly the issue here is whether settlement of the case under Section 2307 extinguishes criminal liability under Section 3601, both of Republic Act 1937, otherwise called the Tariff and Customs Code.

Section 3601, penalizing smuggling, provides:

"SEC. 3601. Unlawful Importation. Any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell or in any manner facilitate the transportation, concealment, or sale of such article after importation, knowing the same to have been imported contrary to law, shall be punished by a fine of not less than six hundred pesos nor more than five thousand pesos and imprisonment for not less than six months nor more than two years and, if the offender is an alien, he shall be deported after serving the sentence.

"When, upon trial for a violation of this section, the defendant is shown to have or to have had possession of the article in question, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the court."

Section 2307, relied upon by the accused, is as follows:

"SEC. 2307. Settlement of Case by Payment of Fine or Redemption of Forfeited Property. - If, in any seizure case, the owner or agent shall, while the case is yet before the Collector of the district of seizure, pay to such Collector the fine imposed by him or, in case of forfeiture, shall pay the appraised value of the property, or, after appeal of the case, he shall pay to the Commissioner the amount of the fine as finally determined by him, or, in case of forfeiture, shall pay the appraised value of the property, such property shall be forthwith surrendered, and all liability which may or might attach to the property by virtue of the offense which was the occasion of the seizure and all liability which might have been incurred under any bond given by the owner or agent in respect to such property shall thereupon be deemed to be discharged.

"Redemption of forfeited property shall not be allowed in any case where the importation is absolutely prohibited or where the surrender of the property to the person offering to redeem the same would be contrary to law."

It is urged by the accused that settlement under Section 2307, prior to the filing of the criminal action, discharges all liabilities which may or might attach by virtue of the offense. Such interpretation would stretch the law too far. Section 2307 expressly states what are deemed discharged thereunder, namely, "all liability which may or might attach to the property by virtue of the offense which was the occasion of the seizure and all liability which might have been incurred under any bond given by the owner or agent in respect to such property". It limits the effects of the aforesaid settlement to the liability that attaches to the property, or to the bond that replaces the property. It does not speak of the liability that falls on the person or offender. Clearly, therefore, the interpretation of the accused is not supported by the law.

Furthermore, such interpretation, if adopted, would aggravate the problem of smuggling and pave the way to national economic ruin. For it would encourage unlawful importation, since by the mere expedient of redeeming their seized importation the smugglers would be freed from personal criminal liability for the offense. Such a course we cannot in the least sanction.

All the more does the position of the accused become untenable when it is considered that prior to the effectivity of Republic Act 1937 on July 1, 1957, the applicable law contained a provision allowing the Commissioner of Customs to compromise the criminal liability of the offender in cases of unlawful importation. We refer to Section 1369 of the Revised Administrative Code. Its elimination in Republic Act 1937 clearly shows the intent of Congress henceforth not to allow compromises of the offender's criminal liability in said cases. Significantly, also, Section 2307 of Republic Act 1937 falls under part 2 of Title VI of said Act which is entitled "Administrative Proceedings". Settlement of the administrative proceedings does not, in the absence of express provision to that effect, amount to settlement of the criminal liability.

Appellee cites *People vs. Magdaluyo*, L-16235, April 20, 1961. Said case, however, involved a violation of the National Internal Revenue Code. Section 309 of said Code allows the Commissioner of Internal Revenue to compromise the civil as well as criminal cases arising thereunder. No similar provision exists, vis-a-vis the Collector or Commissioner of Customs, in regard to violation of the Tariff and Customs Code.

Wherefore, the order appealed from is reversed and set aside and the case remanded to the Court a quo for further proceedings. No costs. So ordered.

Bengzon, C. J. Bautista Angelo, Concepción, Reyes, J. B. L., Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

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