

RAMON A. GONZALES, PETITIONER, VS. JUAN PONCE ENRILE, AS COMMISSIONER OF CUSTOMS, AND RAFAEL M. SALAS, AS EXECUTIVE SECRETARY, RESPONDENTS.

G.R. No. 22730, May 24, 1967

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Original petition filed by Ramon A. Gonzales, a resident of Molo, Iloilo City, seeking to restrain the respondents Executive Secretary and Commissioner of Customs from enforcing the directive (of former President Macapagal) to burn confiscated "blue seal" cigarettes, on the ground that such act is "in excess of or without jurisdiction", being contrary to the Tariff Law (Rep. Act 1937), and constitutes, indirectly, a wastage of public funds, and praying for a declaration of the nullity of the said presidential directive.

This action was instituted after the newspapers carried the report of the burning at the North Harbor in Manila, on April 2, 1964, of confiscated "blue seal" cigarettes. Petitioner claims that since under Section 2601 of the Tariff and Customs law, these cigarettes are subject to confiscation and sale, the proceeds of which are to be applied to the duties, taxes, storage and arrastre charges due the government, then the burning of the goods is not sanctioned by law, and is a waste of public property or public funds to his damage and prejudice as a taxpayer. It is also alleged that the act of respondent Customs Commissioner now complained of, was effected pursuant to the instructions of former President Macapagal to stop the auction sale and instead cause the burning of those confiscated cigarettes, instructions that, allegedly, have no basis in law.

Respondents, while admitting the issuance by the Malacañang Press Office of Press Release No. 3 dated March 31, 1964, the per-tinent part of which reading as follows:

"PRESS RELEASE NO. 3

"SUBJECT: ANTI-SMUGGLING

"The anti-smuggling committee headed by President Macapagal met this noon and adopted policies calling for the burning of confiscated blue-seal cigarettes and the seizure and detention of vehicles used to convey smuggled goods.

"Acting Press Secretary Virgilio Reyes said following a two-hour meeting in the Music Room of Malacañang Palace that the President;

"(1) Instructed Acting Executive Secretary Calixto Zaldivar to stop the auction sale of and instead burn publicly all confiscated cigarettes, but to make an inventory of all burned cigarette stocks;

x x x.

"The committee in deciding to adopt the policy of burn-ing confiscated cigarettes noted that the smuggling of ci-garettes had, firstly, caused tremendous loss of government revenue; secondly, thrown out of jobs thousands

of workers; thirdly, constituted a health hazard; and, fourthly, caused corruption among officials and agents of the law.",

assert that the actual presidential instruction was to stop the auction sale of confiscated cigarettes and to cause their burning only in those cases where their destruction is allowable by law; and that the burning, on April 2 and 7, 1964, of 576 (not only 420) cases of confiscated cigarettes, certified as unfit for sale or use by the Condemnation Committee of the Bureau of Customs, was authorized under Section 2608 of the Tariff code.

The issue in this case, therefore, is whether or not the disposal by burning of such confiscated cigarettes, by the respondent Commissioner of Customs was authorized by law.

In contesting its legality, petitioner insinuates that there was a hidden motivation for the issuance of the directive of the President, different from its announced intendment; that the disputed presidential instructions could be utilized to cover up for missing confiscated goods. Such alleged motivations cannot be taken into consideration in the determination of the issue in this case, being conjecture pure and simple. Moreover, under our system of government, the role of the judiciary is also circumscribed by law and legal principles, one of which is the absence of jurisdiction of the courts to inquire into the motives that lie behind the formulation of government policies by the executive.

On the other hand, in answer to petitioner's allegations, respondents presented the certifications by the customs authorities that the confiscated cigarettes involved here were unfit for human consumption; that their destruction was recommended by the Condemnation Committee of the Bureau of Customs, one member of which was a physician; and that in disposing of the same, the procedure prescribed in Section 2608 of the Tariff Code[1] was duly observed.

This contention has remained unrefuted. The Malacañang press release containing an account of the issuance of the disputed instructions of the President, relied upon by the petitioner, is incompetent evidence that cannot override respondents' allegation that the directive was for the burning of the confiscated goods only, in those instances where such manner of disposition is allowed under the law.

WHEREFORE, there being no evidence that the burning of the confiscated cigarettes involved in this case was not made in accordance with law, the present petition is hereby dismissed, with costs against petitioner.

SO ORDERED.

Concepcion, C.J., Dizon, Regala, Makalintal, Bengzon, J.P., Sanchez, and Castro, JJ., concur.

[1] "SEC. 2608. Disposition of Articles Unfit for Use or Sale of Injurious to Public Health. - When any article, which in the opinion of the Collector, is a menace to public health, is seized or otherwise comes into the custody of the Bureau of Customs, the Collector of the port shall, if the matter is not disposable under the provisions relating to food and drugs, appoint a board of three members to examine the article. Whenever possible, one member shall be a representative of the Bureau of Health or the local health officer, and the two others shall be responsible officials of the Bureau of Customs, at least one of whom shall be an appraiser. Such board shall examine said article, and if the same is found to be unfit or a menace to the public health, the board shall be so reported in writing to the Collector, who shall forthwith order its destruction in such manner as the case may require."

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