

R. M. ROBLES, PLAINTIFF AND APPELLEE, VS. THE INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G. R. No. 25224. August 31, 1926

Ponente: JOHNS, J.

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JOHNS, J.:

STATEMENT

This is an appeal by the defendant as Insular Collector of Customs from a judgment of the Court of First Instance of Manila reversing the decision of the defendant in which he classified certain imported articles as coming under paragraph 146 of the Philippine Tariff Act of 1909, and assessed duties thereon at 50 per cent ad valorem, the plaintiff contending and the lower court sustaining his contention that the articles in question should be classified under paragraph 98 (d) of the Act in question, and taxed thereunder plus the surtax as therein provided.

The parties entered into the following stipulation of facts:

"The parties to this case agree that on August 27, 1924, the Standard Import, Inc., represented by the Customs Agent R. M. Robles, received two packages of dry goods declared as plain cotton textile, weighing 16 kilos with a net weight of 13 kilos, valued at 797.65 francs, equivalent to P140.31. That the Customs House has collected from the importer the sum of P140.32 and said amount was paid under protest, and this case was taken to this court after the protest of the importer company had been filed. That said imported goods are known as organdies. That the representative of the Customs House admits that said imported dry goods are classified as embroideries and that said dry goods had small embroideries of silk on them.

"Counsel for the plaintiff wants only to discuss the question raised as to whether the two articles of the tariff regulations invoked by both parties litigant must be applied, even on the hypothesis that the value of the silk with which the embroidery was made on the dry goods were greater than that of the latter."

Based thereon, the lower court sustained plaintiff's contention and ordered the return of a portion of the duties which were assessed and collected under paragraph 146 of the Act.

On defendant's appeal, he assigns the following errors:

"I. That under the facts of the case, the court below erred in holding that the textiles in question should be taxed under rule 9 in relation to paragraph 98 of the Tariff Act of 1909, with the corresponding surtaxes prescribed in rule 2, instead of under paragraph 146 of said Act.

"II. That the court below erred in ordering the defendant to return any part of the money collected from the plaintiff as duties on the textiles in question."

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In his brief, the Attorney-General says:

"In arguing this case we will proceed with the assumption that the textiles in question are embroideries in which artificial silk is the component material of chief value.

That silk is the textiles' component material of chief value is impliedly admitted in the stipulation of facts. In view of this, it is submitted that the defendant was right in classifying and taxing the textiles in question under paragraph 146 of the Philippine Tariff Act of 1909. This paragraph provides:

" 'Manufactures in which silk, artificial silk, or imitation silk is the component material of chief value, not otherwise provided for, fifty per centum ad valorem.

"It is true that the textiles in question are admitted to be embroideries and that rule 9 of the Tariff Act speaks of 'Embroidery and Trimmings/ but the fact that artificial silk is the component material of chief value of the textiles under consideration precludes them from falling under rule

9. In other words, even though an article is an embroidery if its component material of chief value is silk or artificial silk or imitation silk, it should be considered a 'manufacture' within the purview of paragraph 146 and must be taxed thereunder."

That involves the legal construction to be placed upon the stipulation of facts.

In his brief, the Attorney-General says that "the parties in this case have stipulated the following facts:

"1. That the textiles in question are embroideries.

"2. That they are embroidered with artificial silk.

"3. That the plaintiff desires to discuss and settle the question as to whether the textiles should come under paragraph 98 (d) and rule 9 of the Tariff Act of 1909 or under paragraph 146, even assuming that the artificial silk is the textiles' component material of chief value."

That is to say, in clause 1, it is stipulated "that the textiles in question are embroideries," and in clause 2 "that they are embroidered with artificial silk." Those are the only facts which are stipulated.

The Attorney-General contends that by the stipulation of facts, it is impliedly admitted that "silk is the component material of chief value." Clause 3 of the stipulation will not bear that construction. In its legal effect, that clause is nothing more than a stipulation as to what is plaintiff's contention as to the legal construction which should be placed upon the law. But in clause 1, it is stipulated "that the textiles in question are embroideries," and by clause 2 "that they are embroidered with artificial silk."

There is nothing whatever in clause 3 which in any manner limits or modifies the legal force or effect of the stipulation made in clauses 1 and 2. It having been stipulated as a fact "that the textiles in question are embroideries," and "that they are embroidered with artificial silk," we must accept those facts as true.

Paragraph 146 of the Tariff Law, upon which the levy was made and the tax collected by the defendant, provides:

"Manufactures in which silk, artificial silk, or imitation silk is the component material of chief value, not otherwise provided for, fifty per centum ad valorem."

Rule 9 of paragraph 98, upon which the plaintiff relies, provides:

"Textiles, embroidered by hand or machine after weaving, or, with application of trimmings, shall be liable to the duties leviable thereon with a surtax of thirty per centum."

There is no stipulation of facts that "silk, artificial silk, or imitation silk is the component material of chief value."

Having stipulated "that the textiles in question are embroideries," and "that they are embroidered with artificial silk," it then devolved upon the defendant to both allege and prove that "silk is the component material of chief value." Upon that point there is a failure of proof.

Based upon the facts as stipulated, the judgment of the lower court is affirmed, with costs. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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