

SPRUNGLI & CO., PLAINTIFFS AND APPELLANTS, VS. THE COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLEE.

G.R. No. 4497. December 16, 1908

Ponente: TRACEY, J.

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TRACEY, J.:

This is an appeal from a judgment of the Court of First Instance of the city of Manila, affirming a decision of the Collector of Customs, holding that certain imported shoes made of lacquered canvas so as to closely resemble patent leather were properly classed as imitation patent leather under paragraph 222 of the Customs Law of 1901[1] in connection with rule 15, rather than as oilcloth shoes under paragraph 349 (c), which enumerates "oilcloth manufactured into wearing apparel."

This is the sole contention of the appellants, who do not claim that they should have been classified under paragraph 221 as "shoes of cowhide and similar leather and canvas," a classification long ago rejected by the Collector and the Court of Customs Appeals in a decision put in evidence in this case.

Although, under certain circumstances, shoes may be included in the general term "wearing apparel," yet when applying the Customs Law where articles are minutely distinguished and classified according to their material and nature, it can not be understood that any such indefinite phraseology was intended. To the technical, as well as to the common understanding, "oilcloth manufactured into wearing apparel" does not include shoes, although they are destined to human wear, nor are they covered by subdivision (d) of the same section which treats of oilcloths in the words "other, including linoleum," which is manifestly quite a different condition of oilcloths from that here indicated.

It was held that they were not properly grouped under paragraph 221 as shoes "of canvas" for the reason that they were not of simple canvas, the appearance and use of which are radically changed by treatment with lacquer. Nor did they fall directly under paragraph 221, which excludes "shoes of patent and similar leather." There was therefore no paragraph of the Tariff Act literally describing them so that it became proper to apply rule 15, known as the rule of assimilation, which reads as follows:

"That each and every imported article not enumerated in this Act, which is similar, either in material, quality, texture, or the use to which it may be applied, to any article enumerated in this Act as chargeable with duty, shall pay the same rate of duty which is levied on the enumerated article which it most resembles in any of the particulars before mentioned; * * *"

In applying that rule the court below and the Collector of Customs committed no error. It can hardly be said that, because shoes as such, without qualification, are not enumerated in the Act, this rule may not be applied in case of oilcloth shoes so as to assimilate them to patent leather shoes which they most resemble and of which, indeed they are but an imitation.

The judgment of the Court of First Instance is affirmed, with the costs of this instance. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Carson, JJ., concur.
Willard, J., dissents.

[1] Act No. 230, 1 Pub. Laws, 581.

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