

ANASTACIA DE GUZMAN, PETITIONER AND APPELLANT, VS. RAMON LONTOK, RESPONDENT AND APPELLEE.*G.R. No. 45958. July 22, 1939*

Ponente: DIAZ, J.

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Anastacia de Guzman comes to this court on certiorari to ask for the review of the judgment of the Court of Appeals, which reverses that rendered by the Court of First Instance of Manila in civil case No. 48309 of said court. The case in question was one in which, the petitioner and the respondent having been compelled by the Government, upon petition of the Solicitor-General, to interplead for the purpose of determining who of the two had a better right to the reward of P5,584.65 representing one-half of the penalty imposed upon a Japanese merchant named Monji Nakagawa for having violated the internal revenue laws regarding the payment of sales taxes, judgment was rendered ordering that the amount in question be divided equally between the two, considering both of them as informers, in accordance with section 2735 of the Administrative Code, as amended by Act No. 3734, and entitled, therefore, to said reward in the proportion above-stated. The Court of Appeals decided that said amount of P5,584.65 be paid in full to the respondent.

The petitioner contends that the judgment of the Court of Appeals is contrary to law on the ground that it constitutes an abuse of discretion.

The facts established during the trial, according to the statement thereof made in the decision and judgment of the Court of Appeals, are briefly as follows: Enori Susuki, on November 25, 1933, delivered to the petitioner at her residence on Bambang Street, in the City of Manila, certain books and records belonging to the Japanese merchant Monji Nakagawa, for confidential safekeeping. Having suspected that the books and records in question contained fraudulent acts against the Bureau of Internal Revenue, the petitioner asked Dominador Marquicias to advise her what to do. Marquicias promised to bring an internal revenue agent to the petitioner's house and on the afternoon of November 27, 1933, the former, in compliance with his promise, brought to said petitioner's house Inspector Domingo Javier of the Bureau of Internal Revenue. Notwithstanding the fact that the petitioner was then in the province, her husband, who was present, showed the books and records of Monji Nakagawa to said inspector who, as soon as he had made an examination thereof, expressed the opinion that they constituted sufficient evidence to proceed against their owner Monji Nakagawa. He then promised to prepare the necessary letter of information to be signed by someone. On the following day, he delivered to Dominador Marquicias the promised letter, which had been prepared expressly for the signature of the latter. Marquicias, however, refused to sign it on the pretext that he was a business agent and he feared that his signing it might cause him trouble. In this state of affairs the respondent, on December 6, 1933, sent a letter of information to the Bureau of Internal Revenue, denouncing, on his own account, acts of Monji Nakagawa believed by him to be fraudulent, indicating therein the names of the banks where said merchant had deposited his money and attaching to his said letter a sketch of the places where he believed Nakagawa's books and records were kept. Two days later, the respondent sent to said bureau another letter giving additional information regarding the volume of Monji Nakagawa's

importation business and the place where the latter had been making his purchases and sales.

Three days later, that is, on December 9, 1933, the petitioner again gave the Bureau of Internal Revenue information, in writing, regarding the fraudulent acts committed by Nakagawa, later making delivery of the books and records which had been entrusted to her. The Collector of Internal Revenue, however, answered her that he could no longer entertain her information because he had already received another information from a different source, at an earlier date.

After the Bureau of Internal Revenue had conducted the necessary investigations wherein it took into account not only the data furnished by the respondent but also the books and records placed by the petitioner at the disposal of said bureau, which books and records were the same ones examined by Inspector Domingo Javier of the Bureau of Internal Revenue on November 27, 1933, and which, according to him, constituted sufficient evidence against Monji Nakagawa, it was decided to impose upon said merchant the above-mentioned penalty of P11,169.31. After Nakagawa had paid said penalty without protest, both the petitioner and the respondent, independently of one another, claimed one-half of said amount, each basing his claim on the provisions of the above-cited section 2735 of the Administrative Code. The Collector of Internal Revenue decided the question holding that the respondent had a better right thereto and, therefore, should receive all of said amount of P5,584.65. The petitioner appealed from said decision to the Secretary of Finance, and while this official expressed the opinion that the petitioner had a better right, for having " complied substantially with the requisites of the law, he suggested, however, that if she and the respondent did not arrive at an agreement, they be compelled to interplead to determine once and for all to whom of the two the reward prescribed by law should be paid.

Section 2735 of the Administrative Code, as amended by Act No. 3734, literally reads as follows:

"Any person, except an internal-revenue agent or officer or other public official, who voluntarily gives definite information leading to the arrest and conviction of any one violating any of the penal provisions of the internal-revenue laws, shall be rewarded in a sum equivalent to fifty per centum of the fine imposed by the court and collected from the violator: Provided, however, That in cases in which the violator has offered to compromise the violation of law committed by him and his offer has been accepted by the Collector of Internal Revenue, the reward to be paid to the informer shall be fifty per centum of the amount compromised and collected from the violator, exclusive of taxes: Provided, further, That if the information furnished has led to the discovery of any delinquency or fraud in the payment of any internal-revenue tax for which the law provides penalties, the informer shall also receive a reward equivalent to fifty per centum of the penalties established by law and actually collected from the delinquent or offending taxpayer: And provided, further, That if the money paid by the delinquent taxpayer or collected by the Government by legal action or execution, is not sufficient to cover all taxes and penalties established by law and owing by the taxpayer, the informer shall receive fifty per centum of the sum so paid or collected, but he shall in no case receive more than the amount of the reward to which he is entitled under the provisions of this section: And provided, finally, That the reward provided for in this section shall be paid under regulations issued by the Collector of Internal Revenue, with the approval of the Department Head,

"The reward herein authorized shall be paid out of the fines, compromises, and penalties established by law, collected as result of the information furnished by the informers."

It will be observed that the above-quoted provision does not require that the information to be given be necessarily in writing. It is sufficient, for the purposes of the same, that said information be definite and that it results in the arrest and conviction of the person violating a penal provision of the internal revenue laws. However, when Regulations No. 68 of the Bureau of Internal Revenue were promulgated on May 12, 1931, with the approval of the Secretary of Finance to whose department the Bureau of Internal Revenue belongs, it was made to carry the provisions contained in section 3 thereof, which literally reads as follows:

"To be entitled to a reward under the law, the informer voluntarily must give the information in writing to the Collector of Internal Revenue or to any other internal revenue officer. In order to come within the purview of the law, the information communicated must have led to the conviction of any violator of the internal revenue laws or to the collection of delinquent internal revenue taxes, so that no reward shall be granted where the information is received after the discovery by the Collector of Internal Revenue or by any other internal revenue officer or employee of the Bureau of Internal Revenue of the violation or delinquency indicated, even if the exact nature or extent of such violation or delinquency be unknown at the time. The information must also be definite, with a specification of the name and address of the taxpayer reported, the specific nature of the violation committed or delinquency incurred, the manner and form and other circumstances surrounding the violation, the approximate date or period when the violation was committed or delinquency was incurred, and the names and addresses of witnesses, if any, who may know or are familiar with the facts of the case. Moreover, the information should be accompanied by concrete evidence showing the existence of the violation or delinquency, or, if this cannot be done, by a statement of the source of such evidence. If possible, the informer should specify the particular entries or statements which are false or fraudulent, the books or records in which they are found, or if the books or records of the taxpayer containing the false entries are concealed, the place where such books or records may be found. Furthermore, the information given must have been secured by the informer personally or through any other person or persons who are not in any way connected with the revenue service. Information regarding mistakes committed in good faith by taxpayers in keeping their books of account, such as errors in addition or failure, through oversight or any other justifiable reason, to enter the receipts in the record book for a number of days, will not justify the payment of any reward. Neither will information about delinquencies when they are a matter of record in the Bureau of Internal Revenue or in the office of any internal revenue officer be considered for any reward.

"The Collector of Internal Revenue will determine in each case whether or not the information given justifies the payment of the rewards mentioned herein.

"All information, verbal or written, received from informers by the Collector of Internal Revenue or by any other internal revenue officer shall be treated as strictly confidential and used exclusively for internal revenue purposes."

While it is true that said section provides that the information should be given in writing in order to entitle a person to the reward prescribed by law, nevertheless, it neither excludes nor prohibits said information from being verbal. This is so understood from the last paragraph thereof wherein it is stated that:

"All information, verbal or written, received from informers by the Collector of Internal Revenue or by any other internal revenue officer shall be treated as strictly confidential and used exclusively for internal revenue purposes."

If it were not so understood, said paragraph would be without any meaning or purpose.

When the petitioner verbally gave Inspector Domingo Javier of the Bureau of Internal Revenue the information regarding the fraudulent acts of Monji Nakagawa, showing him the evidence she had in her possession, which consisted of the books and records of said merchant, she gave it to him complete, sufficient and definite, and it was so declared by the inspector himself. Under said circumstances, it was the duty of the Bureau of Internal Revenue, either through said inspector or through another officer of said bureau, to take immediate action against Monji Nakagawa, inasmuch as no other evidence was necessary. To act otherwise, under the pretext that the information given was not in writing, when Regulations No. 68 also allows verbal information, was simply to countenance the continuance of the commission of the fraudulent acts of the merchant in question, or at least to tolerate the commission thereof, and certainly this is not what the law contemplates. The information given to Inspector Domingo Javier was, strictly speaking, an information given to the Bureau of Internal Revenue itself, and duty then demanded that the one and the other conduct the necessary investigation and take proper action

against Monji Nakagawa, the same action which was later taken by them but which was delayed because they seemed to demand as a prerequisite the filing with them of the information or charge in writing. If the information given by the petitioner had, as in fact it has, contributed directly to the result arrived at by the Bureau of Internal Revenue, the spirit of the law is that the reward prescribed by it should be paid to her. If this were not done, or if the contrary view were sustained, it would be tantamount to opening the door to fraud and giving the violator of the law an opportunity to scoff at it, either by destroying the evidence that might be used against him or by fabricating another that might assure his impunity.

The Court of Appeals, in not applying the law and the provisions of Regulations No. 68 of the Bureau of Internal Revenue, undoubtedly committed the error of law attributed to it by the petitioner, and said error is the result of said court's abuse of its discretion and undue application of the law, to correct which certiorari is the adequate remedy.

Wherefore, the decision of the Court of Appeals is reversed, upholding hereby the opinion of the Secretary of the Department of Finance who approved the same regulations which said court sought to apply, to the effect that the petitioner, for having complied substantially with the requisites prescribed by law, has a better right than the respondent to the reward in question; and the Bureau of Internal Revenue is hereby ordered to pay the entire amount of P5,584.65 as reward to the petitioner, with costs to the respondent. So ordered.

Villa-Real, Imperial, and Sison,[1] JJ., concur.

Concepcion, J., see concurring opinion.

[1] In order to form a quorum, Justice Teofilo Sison, of the Court of Appeals, took part by virtue of the designation made by the President of the Commonwealth.

CONCURRING OPINION

CONCEPCION, J.:

I concur with the majority, with the observation that the petitioner, by the fact that Inspector Domingo Javier of the Bureau of Internal Revenue, through ignorance or negligence, failed to take immediate action upon receipt of the petitioner's information, should not lose her right to the entire reward granted by law, as she is in no way responsible for said inspector's ignorance or refusal to comply immediately with his duty to give due course to the valid and sufficient information received by him from the petitioner, thereby giving rise, through his inexcusable conduct, to the subsequent filing of another information on the same facts and to the present dispute between the second informer and the petitioner over the right to the lawful reward.

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