

**CASTLE BROS., WOLF & SONS, PLAINTIFFS AND APPELLANTS,
VS. H. B. MCCOY, AS INSULAR COLLECTOR OF CUSTOMS,
DEFENDANT AND APPELLEE.**

G.R. No. 7269. January 27, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

It appears from the record that on or about the 28th of February, 1911, the plaintiff imported into the Philippine Islands, at the port and city of Manila, from the United States, 1,527 kilos of roasted and ground coffee, 22 kilos of coriander seed, 12 kilos of ground nutmeg, 11 kilos of ground cloves, 44 kilos of ground mace, and 40 kilos of ground thyme.

Upon the aforesaid merchandise the Collector of Customs exacted the payment of duties, under the Act of Congress of August 5, 1909, as follows:

On the coffee, \$137.43; on the coriander seed, \$1.33; on the nutmeg, 96 cents; on the cloves, \$1.10; on the mace, \$4.40; on the thyme, \$4, making a total of \$149.22 United States currency, or the sum of P298.44 Philippine currency.

The plaintiff paid the duty demanded under protest, on the ground that the goods were the product or manufacture of the United States, as defined by section 12 of said Act of Congress of August 5, 1909. Said protest was overruled by the Collector of Customs and the plaintiff appealed to the Court of First Instance of the city of Manila.

In the Court of First Instance the parties, by stipulation, entered into the following agreement:

"That of the coffee referred to in the proceedings in the above-entitled case, 350 kilos (net dutiable weight) of V. P. coffee were imported into the United States roasted and there ground and packed for shipment to the Philippine Islands; that of the coffee referred to in the proceedings in the above-entitled case, 330 kilos (net dutiable weight) of V. P. ground coffee were imported into the United States both roasted and ground, and there packed in small retail packages for shipment to the Philippine Islands; that the remainder of the coffee referred to in the proceedings in the above-entitled case was imported into the United States as green coffee in the whole grain, and was roasted and ground and packed for shipment in the United States; that the nutmeg, cloves, mace, thyme and the coriander seeds referred to in the proceedings in the above-entitled case were all imported into the United States as whole seeds, flowers, or leaves, and were in the United States ground into the powder known as ground nutmeg, ground cloves, ground mace, ground thyme and ground coriander seed, respectively.

"2. That all of the articles mentioned in Paragraph 1 hereof were imported into the Philippine Islands from the United States 'directly,' i. e., were shipped in one bottom and not transshipped en route.

"3. That the above-entitled matter may be decided forthwith by the Court of First Instance upon the foregoing stipulation of facts, and upon the record transmitted to and now on file in that court by the Bureau of Customs;

that appellant shall file his argument in writing within ten days from the date of this stipulation, and that the Insular Collector of Customs shall file his written argument in reply thereto within ten days after receipt of copy of the written argument of plaintiff, as hereinbefore provided.

"Dated at Manila, P. I., this 27th day of June, 1911.

(Signed) "Bruce, Lawrence, Ross & Block,

"Attorneys for plaintiff.

(Signed) "J. W. Ferrier, Attorney for defendant."

Upon the foregoing agreed facts, the Honorable A. S. Crossfield, judge, sustained the Collector of Customs in a decision, the dispositive part of which is as follows:

"The roasting, grinding, and packing for shipment does not, in my opinion, make the coffee which was imported into the United States an article of the manufacture of the United States for the reason that it is coffee still and the labor which has been placed upon it has been only one of the steps taken in preparing it for use. The grinding of nutmeg, cloves, mace, thyme, and coriander seed does not change the character of the article, but the labor used is only preparing the article for use and does not change its character in any way.

"The conclusions are that the appeal should be dismissed." From that decision the plaintiff appealed to this court and made the following assignment of error:

"And now comes the appellant, by its undersigned counsel, and avers that in the trial of the above-entitled cause in the Court of First Instance of Manila, there was error to the prejudice of the appellant, in that said Court of First Instance, by its decision, affirmed the ruling of the Collector of Customs."

The question presented for decision by said assignment of error is more concretely stated by appellant in his brief, as follows:

"The sole question presented in this case is whether roasting and grinding, as to coffee, and grinding as to several enumerated spices, constitute 'manufacture,' within the meaning of the Tariff Revision Law of 1909; for, although the question of roasted but unground coffee is presented, it is rather for the purpose of getting a judicial ruling than in the spirit of protest against the decision of the Collector."

Section 12 of the Tariff Law of 1909, entitled "An Act to raise revenue for the Philippine Islands, and for other purposes," Public Laws of the Philippine Islands, volume 7, pages 367 to 416, at page 412, provides:

"That all articles, except rice, the growth, product, or manufacture of the United States and its possessions to which the customs tariff in force in the United States is applied and upon which no drawback customs duty has been allowed therein, going into the Philippine Islands shall hereafter be admitted therein free of customs duty when the same are shipped directly from the country of origin to the country of destination: Provided, That direct shipment shall include shipment in bond through foreign territory contiguous to the United States. Said articles shall be as originally packed without having been opened or in any manner changed in condition: Provided, however, That if such articles shall become unpacked while en route, by accident, wreck or other casualty, or so damaged as to necessitate their repacking, the same shall be admitted free of duty upon satisfactory proof that the unpacking occurred through accident or necessity, and that the merchandise involved is the identical merchandise originally shipped from the United States or its possessions as hereinbefore provided, and that its condition has not been changed except for such damage as may have been sustained."

It is admitted that the merchandise in question had been originally imported into the United States, and that it had been imported into the Philippine Islands from the United States "directly;" that is, shipped in one bottom and not transshipped en route.

The sole question presented then is, whether roasting and grinding coffee and grinding the enumerated spices, constitute "manufacture," within the meaning of the Tariff Law. If the grinding and roasting of the coffee and the grinding of the spices constitute a manufacture, then the said merchandise should be admitted free of duty and the amount collected by the Collector of Customs should be returned to the appellant.

The term "manufacture" has been defined many, many times, not only by writers of dictionaries but by the courts. The definition given by the writers of dictionaries has not always been followed by the courts. Courts, in their definitions, have been governed by the general provisions and the ultimate object of particular statutes. An examination of the decisions of the courts in which the term "manufacture" has been defined, shows that different and conflicting definitions have been given. These different definitions have been the result of an effort on the part of the courts to give to a particular statute the effect and operation intended by the legislature. For example, under a statute in the interest of protecting life, requiring all manufactories carried on in large buildings, to place fire escapes thereon, one for every fifteen persons employed in such establishment, the courts might give the word "manufacture" a definition which would require the owners of such establishments to place fire escapes in buildings where a large number of people are actually employed, even though the articles produced by such employees would not themselves be regarded as manufactured articles. (*Landgraf vs. Kuh*, 188 Ill., 484, 488.) To illustrate—a large building is erected for the sole purpose of refining sugar. The crude sugar is purchased in large quantities. A thousand men are employed in the building for the sole purpose of assisting in the refining of the sugar. The courts have held that refining sugar is not a process of manufacture (*State vs. American Sugar Refining Co.*, 51 La. Ann., 562; 25 Southern Reporter, 447, 453), and yet for the courts to hold, under a law requiring fire escapes to be placed on buildings used for manufacture, that fire escapes are not required under the law in the case supposed would shock the common sense of justice and defeat the purposes of such a law. In many cities large bakeries are established, for the purpose of furnishing bread at wholesale and retail, in which are employed hundreds of men and women. Baking bread has been held not to be a manufacture. (*State vs. Eckendorf*, 46 La. Ann., 131; 14 Southern Reporter, 518), yet courts would be justified, under the example above given, in holding, under such a law, that fire escapes would have to be placed in buildings so used. (See also *Harttranft vs. Wiegman*, 121 U. S., 609; *Tide Water Oil Company vs. U. S.*, 171 U. S., 210.) Thus it will be seen that lexicographers and courts in their definition of terms, the former attempting to base their definition upon the etymology of the terms used, and the latter attempting to give force and effect to legislative enactments, may differ in their conclusions as to the meaning, signification, and application of terms used.

Mr. Bouvier, in his law dictionary, defines the word "manufacture" as follows:

"It includes any new combination of old material, constituting a new result or production in any vendible article, not being machinery," and cites the cases of *Murphy vs. Aronson* (96 U. S., 134) and *City of New Orleans vs. LeBlanc* (34 La. Ann., 596).

Without doubt the original meaning given the word "manufacture" was "to make by hand," being a definition based upon the etymology of the term, but this original meaning, by the introduction of scientific methods and machinery, has long since lost its significance. (14 American and English Encyclopedia of Law, 257-259.)

Laws exempting property from taxation and from the payment of revenue are always strictly construed, the general rule being that every citizen must bear his share of the expenses of the Government. Exemptions are repugnant. Favoritism under the law, in whatever form, is not justified. (*City vs. Coffee Company*, 46 La. Ann., 87; *North Mo. R. Co. vs. Maguire*, 20 Wall. (U. S.), 46; *Bank of Commerce vs. Tennessee*, 161 U. S., 134; *People vs. Commissioners of Texas*, 76 N. Y., 64; *People vs. Peck*, 157 N. Y. 51; *State vs. Board of Assessors*, 47 La. Ann., 1498.)

With this principle in mind, it is the duty of the court to give the tariff law above quoted a strict interpretation, which will give force and effect to such law. The primary purpose of the law is to produce revenue.

We are not without precedents upon the question presented by the appellant. In the case of *People ex rel. Union Pacific Tea Company vs. Roberts* (145 N. Y., 375), the supreme court of New York held, that "the combination of teas, the roasting, grinding and mixing of coffee, are processes which result in no new article, as it is still coffee and tea that is placed upon the market," and that such process is not "manufacture" in the legal sense.

In the case of *City vs. Coffee Company* (46 La. Ann., 87) the supreme court of Louisiana held that roasting coffee was not a manufacture of coffee, citing in support of such decision *Harttranft vs. Wiegman* (121 U. S., 609), where the Supreme Court of the United States held that where the outer layer of shells was cleaned off by acid and the second layer then ground off by an emery wheel so as to expose the brilliant inner layer, the result was not a manufactured article. The shells in question are not manufactured and are not manufactures of shells. They are still shells; they had not been manufactured into new and different articles having distinctive name, character or use from that of a shell.

The application of labor to an article, either by hand or by mechanism, does not make the article necessarily a manufactured article, within the meaning of the term as used in said Tariff Law. The washing and scouring of wool, for example, does not make the result a "manufacture" of wool. The cleaning and ginning of cotton does not make the result a manufacture of cotton. The cleaning or threshing of rice does not make the cleaner or thresher a manufacturer.

It is not every employment of labor which will make the thing upon which it is employed a manufacture. A maker of ice cream, even on a large scale, for sale at wholesale and retail, is not a manufacturer. (*New Orleans vs. Mannessier*, 32 La. Ann., 1075.)

In the case of *City vs. Coffee Company*, supra, the court observed that the mammoth kitchen of a large hotel is not a manufactory, even though the kitchen yields products in which the identity of the articles from which they are made is almost entirely lost. The result is a product entirely different from its original.

The Treasurer of the United States, whose duty it is to give meaning to the tariff laws, has held in two cases that roasted coffee was not a "manufacture." (Treasury Decision No. 15404.) Also that the roasting and grinding of coffee is not "manufacture." (Treasury Decision No. 17579.)

Upon a full consideration of the facts and the law in the present case, and bearing in mind the purpose and objects of the provisions of the tariff law in question, we are of the opinion and so hold that roasting and grinding as to coffee, and grinding as to the spices involved in the present case, does not constitute "manufacture," within the meaning of section 12 of the Tariff Law of 1909.

Therefore the judgment of the lower court is hereby affirmed, with costs.

Arellano, C. J., Torres, Mapa, Carson, Moreland, and Trent, JJ., concur.

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