

LIM QUIM, PLAINTIFF AND APPELLEE, VS. INSULAR COLLECTOR OF CUSTOMS, DEFENDANT AND APPELLANT.

G.R. No. 7841. November 23, 1912

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal by the Insular Collector of Customs from a judgment of the Court of First Instance of Manila overruling the decision of the Collector of Customs upon the protest of Lim Quim, and ordering that the duties paid by him in excess of the declared value of the goods be refunded.

The plaintiff imported into the Philippine Islands certain merchandise from Japan which was subject to an ad valorem duty. The valuation of said merchandise made by the appraiser at the Manila customhouse was P277.35 more than the value shown in the invoice. In his decision deny plaintiff's protest the Insular Collector of Customs said:

"This claim for reduction in the returned value of certain leather belts fans and straw hats is denied for the reason that the values compare favorably with samples on file of similar articles imported by other merchants in the same quantity at about the same time, and for the further reason that upon special investigation in Japan it is shown that the values re are correct." (Bill of Exceptions, p. 2.)

The Court of First Instance reversed the decision of the Insular Collector Customs and ordered the return of that portion of the duty which was based on a valuation in excess of the invoice value, holding that:

"The values of similar articles obtained by other merchants and by the investigation of an agent of the Philippine custom service in the place production and sale of merchandise subject to duty should serve as a basic for the regulation of the duties, in case they are not contradicted by definite and decisive proof which is forthcoming in this case, consisting nothing less than a certificate; not of any foreign local authority, but the United States consul himself in the place from which the merchandise said official assuring that the values stated in the invoice are correct, values agree perfectly with the sworn declarations of the sellers them (Bill of Exceptions, p. 5.)

Rule 13 (a) of the Philippine Tariff Law of 1909, provides that:

"Whenever imported merchandise is subject to an ad valorem rate duty, the duty shall be assessed upon the actual market value or wholesale price of such merchandise, as bought and sold in usual wholes quantities, at the time of exportation to the Philippine Islands, in the principal markets of the country from whence imported, and in the condition in which such merchandise is there bought and sold for exportation to the Philippine Islands, or consigned to the Philippine for sale, including the value of all cartons, cases, crates, boxes, sacks, coverings of any kind, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the Philippine Islands."

The general method of applying this rule and the duties of customs' appraisers are set forth in sections 189 to 197, inclusive, of Act No. the Philippine Commission. Section 191 of said Act provides that:

"Appraisers shall inspect, examine, and appraise by all reasonable ways means all imported merchandise or dutiable merchandise for exportation which may be designated by the Collector of Customs, and report to the latter writing whether the prices, named in the entry are correct according to market value or wholesale price of similar goods on the day of shipment in the principal markets of the country whence exported. Appraisers shall describe all merchandise in such terms as will enable the collector to pass upon the appraisal and classification of the same, and shall report whether the measurements and quantities (except as to such goods as are weighed, gauged, or measured by the surveyor or officer performing the duties thereof) agree with the entry."

The rule is well established that the value of merchandise fixed by the appraiser and affirmed by the Collector of Customs is conclusive in the absence of an affirmative showing that the appraiser, in assessing the value, proceeded upon a wrong principle and contrary to law. (*Robertson vs. Frank Brothers Company*, 132 U. S., 17; *Auffmordt vs. Hedden*, 131 U. S., 310; *Passavant vs. United States*, 148 U. S., 214; *Muser vs. United States*, 155 U. S., 240.)

In *Muser vs. Magone* (155 U. S., 240) the court held that "the dutiable market value of goods is determined by their general market value without regard to special advantages which the importer may enjoy" and that "the presumption is that a sworn officer, acting in the discharge of his duty as a Subject over which jurisdiction is given him, has acted rightly." The court further said: "The conclusiveness of the valuation of imported merchandise made by the designated officials, in the absence of fraud, is too thoroughly settled to admit of further discussion."

If the customs authorities were bound by the invoice value, it is evident they would be, to, a considerable extent, at the mercy of foreign merchants and importers. The purpose of Congress in providing for appraisers was to prevent fraud upon the customs, and thus protect the revenues of the Government.

It will be noted that the consular certificate is merely a notarial act that the consul does not make any declaration as to the value of the merchandise. The only declaration or statement of the value of the merchandise is that contained in the affidavit of the seller; but, as shown, the tariff law specifically provides that "the duty shall be assessed upon the actual market value or wholesale price of such merchandise, as bought and sold in usual wholesale quantities, at the time of exportation to the Philippine Islands, in the principal markets of the country from whence imported, * * *;" and the Customs Administrative Act provides that "appraisers shall inspect, examine, and appraise by all reasonable ways and means all imported merchandise or dutiable merchandise for exportation which may be designated by the Collector of Customs, and report to the latter in writing whether the prices named in the entry are correct according to the market value or wholesale price of similar goods on the day of shipment in the principal markets of the country whence exported."

The burden is upon the importer to overcome the presumption of a legal collection of duties by proof that their exaction was unlawful (*Erhardt Schroeder*, 155 U. S., 124), and the importer must establish the illegality of the action of the appraisers in order to recover duties paid under protest (*United States vs. Ranlet and Stone*, 172 U. S., 133, 146).

Under the express provisions of law and the decisions of the Supreme Court of the United States above noted, it is clear that the lower court erred in treating the decision of the duly authorized customs authorities, under facts, as conclusive.

Judgment reversed, without costs to either party.

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

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