

COMMISSIONER OF CUSTOMS, PETITIONER, VS. THE HON. RAMON P. MAKASIAR, RTC JUDGE, BRANCH 35, MANILA AND THE DISTILLERS CO. LTD. OF ENGLAND, RESPONDENTS.

G.R. No. 79307. August 29, 1989

Ponente: CORTES, J.

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CORTES, J.:

Petitioner Commissioner of Customs seeks the reversal of respondent judge's decision dated 20 July 1987 in Civil Case No. 82-12821 entitled "The Distillers Co. Ltd., of England v. Victorio Francisco, et al.," the dispositive portion of which reads as follows:

WHEREFORE, having been issued by the Collector of Customs in excess of his jurisdiction the disputed Warrant of Seizure and Detention dated January 2, 1979, in Seizure Identification No. 2-79 of the Bureau of Customs, as well as all the proceedings taken thereon are declared NULL and VOID, and the writ of prohibition prayed for is GRANTED. The public respondent is ordered to REFRAIN and DESIST from conducting any proceedings for the seizure and forfeiture of the articles in question until after the Court having taken cognizance and legal custody thereof has rendered its final judgment in the criminal cases which involve the same articles. Without costs.

SO ORDERED. [RTC Decision, p. 7; Rollo, p. 26.]

The undisputed facts are as follows:

On 7 December 1978, the then Court of First Instance of Manila (herein referred to as CFI-MANILA) issued Search and Seizure Warrants in Criminal Case Nos. 8602 and 8603 entitled "People of the Philippines vs. Howard J. Sosis, et al.," for violation of Section 11(a) and/or 11(e) of Republic Act No. 3720,* and violation of Article 188 of the Revised Penal Code (captioned as "Substituting and altering trademarks, tradenames, or service marks"), respectively, and ordering the seizure of the following:

a) Materials:

All whisky, bottles, labels, caps, cartons, boxes, machinery equipment or other materials used or intended to be used, or suitable for use, in connection with counterfeiting or imitation of Johnnie Walker Scotch Whisky (underscoring supplied)

b) Documents:

* * *

under the control and possession of:

1. Howard J. Sosis
2. George Morrison Lonie

3. Hercules Bottling Co.

4. Lauro Villanueva

5. Vicente Velasco

6. Manuel Esteban

7. Eugenio Mauricio

[Rollo, pp. 106-107.]

On 8 December 1978, a composite team from the Ministry of Finance Bureau of Investigation and Intelligence (herein referred to as BII), the Bureau of Customs and the Integrated National Police enforced the search and seizure warrants, and seized and confiscated the following articles, among others, found in the premises of the Hercules Bottling Co., Inc. (herein referred to as HERCULES) at Isla de Provisor, Paco, Manila:

Six (6) Tanks of Scotch Whisky: 417 cartons each containing 1 doz. bottles of "Johnnie Walker Black Label Whisky"; 109 empty bottles; Empty Cartons of "Johnnie Walker Black Label Scotch Whisky" number 900?2044 empty cartons. [Rollo, p. 21.]

The articles seized remained in the premises of HERCULES guarded and secured by BII personnel.

On 2 January 1979, the Collector of Customs for the Port of Manila, after being informed of the seizure of the subject goods and upon verification that the same were imported contrary to law, issued a warrant of seizure and detention, in Seizure Identification No. 2-79, and ordered the immediate seizure and turnover of the seized items to its Auction and Cargo Disposal Division at the Port of Manila. Seizure and forfeiture proceedings were then initiated against the above-enumerated articles for alleged violation of Section 2530 (f) of the Tariff and Customs Code in relation to Republic Act 3720, to wit:

Sec. 2530. Property subject to forfeiture under Tariff and Customs law:

* * *

(f) Any article the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the collector have been used, are or were entered to be used as instruments in the importation or exportation of the former.

* * *

On 29 January 1979, the CFI-MANILA issued an order authorizing the transfer and delivery of the seized articles to the customs warehouse located at South Harbor, Port of Manila, subject to the following conditions:

1. The Commissioner of Customs is willing to have custody of the same and guarantees their safekeeping at all times in the same quantity, quality, manner and condition when the articles shall be turned over to and received by the Bureau of Customs in custodia legis, subject to the further orders from the Court;

2. No article shall be transferred without the presence of a representative of the applicant, the defendants, the Commissioner of Customs and the Court; these representatives to secure the necessary escort as guarantee that nothing will happen during the transfer of the articles.

3. The Commissioner of Customs to issue the proper and necessary receipt for each and every article transferred to and received by the Bureau of Customs pursuant to this order [Rollo, p. 22.]

Meanwhile, the validity and constitutionality of the issuance and service of the search and seizure warrants issued by the CFI-MANILA were contested in and upheld by the Court of Appeals in CA-G.R. No. SP-09153-R entitled

"Hercules Bottling Co. Inc., et al., v. Victoriano Savellano, et al." HERCULES filed a petition for certiorari in the Supreme Court but in a resolution dated 26 November 1986 in G.R. No. 55061 captioned as "Hercules Bottling Co., Inc. v. The Court of Appeals," the Court dismissed the petition.

Consequently, the City Fiscal of Manila proceeded with the preliminary investigation of the criminal cases, where private respondent, The Distillers Co. Ltd. of England, claiming to be the owner and exclusive manufacturer of Johnnie Walker Scotch Whiskey, was the private complainant [Rollo, p. 61.] With the dismissal of HERCULES' petition, the Bureau of Customs also resumed hearing the seizure and forfeiture proceedings over the said articles.

The present controversy arose when private respondent, on 11 June 1982, objected to the continuation by the Collector of Customs of the seizure proceedings claiming, among others, that these proceedings would hamper or even jeopardize the preliminary investigation being conducted by the fiscal. The Collector of Customs ignored the objections.

In order to stop and enjoin the Hearing Officer of the Bureau of Customs from taking further action in the seizure proceedings of the subject goods, private respondent on 24 September 1982 filed a petition for prohibition with preliminary injunction and/or temporary restraining order, docketed as Civil Case No. 82-12721. It must be noted at this juncture that the petition was heard not before the CFI-MANILA which originally issued the search warrants, but before another sala, that of respondent judge of the Regional Trial Court, Branch 35, Manila.

Respondent judge issued a temporary restraining order on 29 September 1982. Subsequently, a writ for preliminary injunction was issued as well. Petitioner filed an answer on 12 November 1982. On 20 July 1987, respondent judge rendered a decision holding that the Collector of Customs acted in excess of its jurisdiction in issuing the warrant of seizure and detention considering that the subject goods had already come under the legal custody of the CFI-MANILA. Hence, petitioner represented by the Solicitor General, filed the instant petition on 11 August 1987.

In the meantime, Howard Sosis and company were charged for violation of Chapter VI, Sec. 11(a) & (e) of Republic Act 3720 in Criminal Case No. 88-63157 and for violation of Article 188 of the Revised Penal Code in Criminal Case No. 88-63156 before the Regional Trial Court and the Metropolitan Trial Court of Manila, respectively [Rollo, p. 83.]

In his petition, the Commissioner of Customs assigns as errors the following:

I. RESPONDENT JUDGE ERRED IN ISSUING A TEMPORARY RESTRAINING ORDER AND SUBSEQUENTLY A WRIT OF INJUNCTION IN CIVIL CASE NO. 82-12721 NOTWITHSTANDING THE FACT THAT PRIVATE RESPONDENT, THE DISTILLERS CO., LTD., OF ENGLAND HAS NO VALID CAUSE OF ACTION AGAINST HEREIN PETITIONER;

II. RESPONDENT RTC JUDGE GRAVELY ERRED IN TAKING COGNIZANCE OF THE PETITION AND IN PROCEEDING TO HEAR AND RENDER A DECISION IN CIVIL CASE NO. 82-12721 NOTWITHSTANDING THE FACT THAT THE TRIAL COURT HAS NO JURISDICTION OVER THE CASE [Rollo, pp. 10-11.]

Petitioner contends that the authority of the Bureau of Customs over seizure and forfeiture cases is beyond the judicial interference of the Regional Trial Court, even in the form of certiorari, prohibition or mandamus which are really attempts to review the Commissioner's actions [Rollo, p. 98.] Petitioner argues that judicial recourse from the decision of the Bureau of Customs on seizure and forfeiture cases can only be sought in the Court of Tax Appeals and eventually in this Court.

Private respondent however contends that while the law may have vested exclusive jurisdiction in the Bureau of

Customs over forfeiture and seizure cases, in this case respondent judge had jurisdiction to enjoin the Bureau of Customs from continuing with its seizure and forfeiture proceedings since the articles here were already in custodia legis, by virtue of the search warrants issued by the CFI-MANILA. Private respondent contends that respondent judge may properly take cognizance of the instant case since unlike the cases cited by petitioner, the action for prohibition was brought not to claim ownership or possession over the goods but only to preserve the same and to prevent the Bureau of Customs from doing anything prejudicial to the successful prosecution of the criminal cases [Rollo, p. 123.]

The issue thus presented is whether or not respondent judge may enjoin the Collector of Customs from continuing with its seizure and forfeiture proceedings over goods earlier seized by virtue of search warrants issued by the CFI-MANILA.

The instant petition is impressed with merit.

This Court finds that respondent judge has failed to adhere to the prevailing rule which denies him jurisdiction to enjoin the Bureau of Customs from taking further action in the seizure and forfeiture proceedings over the subject goods.

Jurisprudence is replete with cases which have held that regional trial courts are devoid of any competence to pass upon the validity or regularity of seizure and forfeiture proceedings conducted in the Bureau of Customs, and to enjoin, or otherwise interfere with, these proceedings. The Collector of Customs sitting in seizure and forfeiture proceedings has exclusive jurisdiction to hear and determine all questions touching on the seizure and forfeiture of dutiable goods. The regional trial courts are precluded from assuming cognizance over such matters even through petitions of certiorari, prohibition or mandamus [See *General Travel Service v. David*, G.R. No. L-19259, September 23, 1966, 18 SCRA 59; *Pacis v. Averia*, G.R. No. L-22526, November 29, 1966, 18 SCRA 907; *De Joya v. Lantin*, G.R. No. L-24037, April 27, 1967, 19 SCRA 893; *Ponce Enrile v. Vinuya*, G.R. No. L-29043, January 30, 1971, 37 SCRA 381; *Collector of Customs v. Torres*, G.R. No. L-22977, May 31, 1972, 45 SCRA 272; *Pacis v. Geronimo*, G.R. No. L-24068, April 23, 1974, 56 SCRA 583; *Commissioner of Customs v. Navarro*, G.R. No. L-33146, May 31, 1977, 77 SCRA 264; *Republic v. Bocar*, G.R. No. L-35260, September 4, 1979, 93 SCRA 78; *De la Fuente v. De Veyra*, G.R. No. L-35385, January 31, 1983, 120 SCRA 451.]

It is likewise well-settled that the provisions of the Tariff and Customs Code and that of Republic Act No. 1125, as amended**, specify the proper fora for the ventilation of any legal objections or issues raised concerning these proceedings. Actions of the Collector of Customs are appealable to the Commissioner of Customs, whose decisions, in turn, are subject to the exclusive appellate jurisdiction of the Court of Tax Appeals. Thereafter, an appeal lies to this Court through the appropriate petition for review by writ of certiorari. Undeniably, regional trial courts do not share these review powers.

The above rule is anchored upon the policy of placing no unnecessary hindrance on the government's drive not only to prevent smuggling and other frauds upon customs, but also, and more importantly, to render effective and efficient the collection of import and export duties due the state. For tariff and customs duties are taxes constituting a significant portion of the public revenue which are the lifeblood that enables the government to carry out functions it has been instituted to perform.

Notwithstanding these considerations, respondent judge entertained private respondent's petition for prohibition holding that the seizure and forfeiture proceedings instituted in the Bureau of Customs was null and void because the subject goods were earlier seized by virtue of the warrants issued by the CFI-MANILA in Criminal Cases Nos. 8602 and 8603.

This holding is erroneous.

Even if it be assumed that a taint of irregularity may be imputed to the exercise by the Collector of Customs of his jurisdiction to institute seizure and forfeiture proceedings over the subject goods because he had accepted custody of the same under conditions specified in the CFI-Manila order dated January 29, 1979, it would not mean that respondent judge was correspondingly vested with the jurisdiction to interfere with such proceedings [See *Ponce Enrile v. Vinuya*, supra.] It bears repeating that law and settled jurisprudence clearly deprive the regional trial courts of jurisdiction to enjoin the Collector of Customs from exercising his exclusive authority to order seizure and forfeiture proceedings over imported goods.

Moreover, there is no legal basis for respondent judge's conclusion that the Collector of Customs is deprived of his jurisdiction to issue the assailed warrant of seizure and detention, and to institute seizure and forfeiture proceedings for the subject goods simply because the same were first taken in custodia legis.

Undeniably, the subject goods have been brought under the legal control of the CFI-MANILA by virtue of its search and seizure warrants and are, therefore, in custodia legis. But this fact merely serves to deprive any other court or tribunal, except one having supervisory control or superior jurisdiction in the premises, of the right to divest the CFI-MANILA of its custody and control of the said property [Collector of Internal Revenue v. Flores Vda. de Codinera, G.R. No. L-9675, September 28, 1957], or to interfere with and change its possession without its consent [National Power Corporation v. De Veyra, G.R. No. L-15763, December 22, 1961, 3 SCRA 646; De Leon v. Salvador, G.R. Nos. L-30871 & L-31603, December 28, 1970, 36 SCRA 567; Vlasons Enterprises Corporation v. Court of Appeals, G.R. No. 61688, October 28, 1987, 155 SCRA 186.]

In the instant case, the CFI-MANILA was not divested of its jurisdiction over the subject goods, nor were its processes interfered with by the Collector of Customs. It, in fact, authorized the transfer and delivery of the subject goods from the premises of HERCULES to the Bureau of Customs warehouse/bodega at the South Harbor, Port of Manila thereby entrusting the Bureau of Customs with the actual possession and control of the same.

On the other hand, since the Collector of Customs herein had actual possession and control over the subject goods, his jurisdiction over the goods was secured for the purpose of instituting seizure and forfeiture proceedings to determine whether or not the same were imported into the country contrary to law [See *Papa v. Mago*, G.R. No. L-27360, February 28, 1968, 22 SCRA 857]. This is consistent with the principle that the basic operative fact for the institution and perfection of proceedings in rem, like the seizure and forfeiture proceedings pursuant to the Tariff and Customs Code, is the actual or constructive possession of the res by the tribunal empowered by law to conduct the proceedings [See *Dodge v. US*, 71 L. ed. 392 (1926); *US v. Mack*, 79 L. ed. 1559 (1935) citing *The Ann*, 3 L. ed. 734 (1815); *Fettig Canning Co. v. Steckler*, 188 F. 2d 715 (1951) citing *Strong v. US*, 46 F. 2d 257, 79 ALR 150 (1931).]

Therefore, contrary to the import of respondent judge's decision, the Collector of Customs was not precluded by law or legal principle from assuming jurisdiction over the subject goods. No legal infirmity attended the seizure and forfeiture proceedings over the subject goods.

The Court must emphasize at this point that the instant case does not involve a conflict of jurisdictions. Proceedings before the regular courts for criminal prosecutions against Howard Sosis, et al., and seizure and forfeiture proceedings for the subject goods conducted by the Bureau of Customs may be maintained simultaneously and independently of each other. For the nature of the two proceedings are entirely different such that a resolution in one is not decisive of the issue in the other. The latter, which is administrative and civil in nature, is directed against the res or articles imported and entails a determination of the legality of its importation.

The former is directed against those persons who may be held liable for violating the penal laws in connection with the importation [See *Diosamito v. Balanque*, G.R. No. L-30734, July 28, 1969, 28 SCRA 836; *People v. CFI*, G.R. No. L-41686, November 17, 1980, 101 SCRA 86.]

Private respondent, however, argues that conflict may arise regarding the disposition of the subject goods if the proceedings before the Collector of Customs and the regular courts were allowed to proceed simultaneously. Private respondent contends that in view of the nature of the seizure and forfeiture proceedings, a judgment in favor of HERCULES will result in the release of the subject goods to the claimants thereof, while an unfavorable decision will entail their destruction or sale. It is asserted that either of the two outcomes will hamper or even jeopardize the ongoing criminal prosecutions, said goods comprising the substantial part of the evidence for the People of the Philippines.

Proper adherence by both tribunals to the rules of comity as defined in the leading case of *The Government of the Philippines v. Gale* [24 Phil. 95 (1931)] will forestall the conflict feared. In that case the Court had established the rule that where the preservation and safekeeping of the subject matter of an action is demanded, as it is made to appear that these articles may prove to be of vital importance as exhibits in the prosecution of other charges in another proceeding, the rules for the orderly course of proceedings in courts and tribunals forbid the disposition or destruction thereof in one action which would prejudice the other, and vice versa [Id. at pp. 98-99.]

The State in the instant case must be given reasonable opportunity to present its cases for the proper enforcement of the applicable provisions of the Revised Penal Code, Republic Act No. 3720, and the Tariff and Customs Code, and the prosecution of the violators thereof. It follows then that the execution of any final decision in the seizure and forfeiture case before the Bureau of Customs, whether it requires the destruction, sale or the release of the subject goods, should not frustrate the prosecution's task of duly presenting and offering its evidence in Criminal Cases Nos. 88-63156 and 88-63157.

It is apropos to note that for evidentiary purposes, it would not be necessary to present each and every item of the goods in question before the courts trying the criminal cases. Thus, a representative quantity of the goods, as may be agreed upon by the authorized customs officials and fiscals prosecuting the criminal cases, shall be set aside as evidence to be presented in the above criminal cases and retained in custodia legis until final judgment is secured in these cases. The rest of the goods may be disposed of in accordance with the final decision rendered in the seizure and forfeiture proceedings pursuant to the Tariff and Customs Code.

WHEREFORE, in view of the foregoing, the respondent judge's decision dated 20 July 1987 is REVERSED. The seizure and forfeiture proceedings involving the goods in question before the Bureau of Customs may proceed subject to the above pronouncements relative to the setting aside of so much of the goods as may be required for evidentiary purposes.

SO ORDERED.

Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

Fernan, C.J., No part – related to a partner of the Quasha Law Firm.

* AN ACT TO ENSURE THE SAFETY AND PURITY OF FOODS, DRUGS, AND COSMETICS BEING MADE AVAILABLE TO THE PUBLIC BY CREATING THE FOOD AND DRUG ADMINISTRATION WHICH SHALL ADMINISTER AND ENFORCE THE LAWS PERTAINING THERETO (1963).

**** AN ACT CREATING THE COURT OF TAX APPEALS (1954).**

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