

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF APPEALS AND THE COMMISSIONER OF CUSTOMS, RESPONDENTS.

G.R. No. 86625. December 22, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

The Development Bank of the Philippines imported IBM computer equipment from the United States, and in connection therewith paid to the Bureau of Customs duties, compensating taxes and import processing fees in the aggregate sum of P5,562,926.00. It thereafter asked for a refund of the amount paid, invoking Section 4 (c) of Executive Order No. 1087 (eff., Jan. 20, 1986). The Customs Commissioner refused to grant the refund, maintaining that the customs duties, taxes and fees had been correctly imposed and collected.¹

The DBP appealed to the Court of Tax Appeals, which on July 31, 1987 adjudicated the controversy in its favor, ordering the Commissioner of Customs "to refund to ** (it [the DBP]) the amount of P5,562,926.00 it paid to the Bureau of Customs ** (which) shall be applied and credited to the payment of the subscribed capital stock of the Government in the Bank."¹

The Commissioner in turn came up to this Court on an appeal by certiorari, his appeal being docketed as G.R. No. 79635. By Resolution of the Court en banc dated September 15, 1987, however, the appeal was referred to the Court of Appeals for the reason that "(s)uch cases emanating from the Court of Tax Appeals now fall within the exclusive appellate jurisdiction of the Court of Appeals under Section 9 of Batas Pambansa Blg. 129."

In the Court of Appeals the case was docketed as CA-G.R. SP No. 12887. And in due course, the Ninth Division of the Court of Appeals rendered judgment under date of October 3, 1988,² annulling and setting aside that of the Court of Tax Appeals. The Court of Appeals sustained the position of the Customs Commissioner that it was grave error for the Court of Tax Appeals to have taken cognizance of the case in view of the explicit provisions of Presidential Decree No. 242,³ pertinently providing that:

SECTION 1. Provisions of law to the contrary notwithstanding, all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations but excluding constitutional offices or agencies, arising from the interpretation and application of statutes, contracts or agreements, shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That this shall not apply to cases already pending in court at the time of the effectivity of this decree."

The Appellate Tribunal thus held that the controversy between the DBP and the Commissioner of Customs was not within the jurisdiction of the CTA and should have been decided in accordance with the mode of settlement and adjudication set forth in Sections 2 and 3 of P.D. No. 242, viz.:

SEC. 2. In all cases involving only questions of law, the same shall be submitted to and settled or adjudicated by the Secretary of Justice, as Attorney General and ex officio legal adviser of all government-owned or

controlled corporations and entities, in consonance with section 83 of the Revised Administrative Code. His ruling or determination of the question in each case shall be conclusive and binding upon all the parties concerned.

SEC. 3. Cases involving mixed questions of law and of fact or only factual issues shall be submitted to and settled or adjudicated by:

- (a) The Solicitor General, with respect to disputes or claims or controversies between or among the departments, bureaus, offices and other agencies of the National Government;
- (b) The Government Corporate Counsel, with respect to disputes or claims or controversies between or among the government-owned or controlled corporations or entities being served by the Office of the Government Corporate Counsel; and
- (c) The Secretary of Justice, with respect to all other disputes or claims or controversies which do not fall under the categories mentioned in paragraphs (a) and (b).

The Appellate Court ruled that Section 7 (2) of Republic Act No. 1125 -- pursuant to which the Court of Tax Appeals had theretofore been exercising exclusive appellate jurisdiction over decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, inter alia -- had been superseded by said P.D. No. 242, it being "a settled rule of statutory construction that where there is irreconcilable repugnancy between two statutes anent the same subject matter -- as there is between P.D. No. 242 and Sec. 7 (2) of R.A. No. 1125 in regard to the manner of settlement of disputes involving customs duties, etc. between government offices, agencies and corporations -- the one of later enactment, being the latest expression of the legislative will, should prevail over the other which is of earlier enactment."¹

Its motion for reconsideration having been denied on January 10, 1989,² the DBP has filed a petition for review on certiorari with this Court, praying for reversal of the decision of the Court of Appeals on the ground that:

- 1) said Court had no jurisdiction to review decisions of the Court of Tax Appeals, this pertaining exclusively to the Supreme Court; and
- 2) said Court had erred in applying P.D. No. 242 in resolution of the controversy.³

The petition is without merit.

The Court reaffirms its earlier resolution that it is the Court of Appeals which is now vested with exclusive appellate jurisdiction over the Court of Tax Appeals and other quasi-judicial agencies, instrumentalities, boards, or commissions.

It is true that originally, appeals from the Court of Tax Appeals could be taken only to the Supreme Court. This was so stated in Section 181 and Section 192 of Republic Act No. 1125 (eff., June 16, 1954). There were then, as explained by this Court,³

* * two ways of elevating ** (the) case to the Supreme Court, i.e., first, by filing in the Court a quo a notice of appeal and with this Court a petition for review * * (Sec. 18, Rep. Act 1125), and second, by causing such ruling, order or decision of the Court of Tax Appeals likewise reviewed by Us upon a writ of certiorari in proper cases. Premised on these provisions, it may be alleged that when a case is taken up to this Court by petition for review, We could go over the evidence on record and pass upon the questions of fact; but that in cases of review upon petition for a writ of certiorari, this Court could only pass upon issues involving questions of law. In answer to these possible argument We may say that when the interest of justice so demands, We may interchangeably consider petitions for review as petitions for a writ of certiorari and vice-versa, and if We have the power to consider the evidence to determine the facts in cases of review, We

find no plausible reason for depriving this Court of such power in petitions for certiorari specially if We consider that in the latter cases the petitioner oftenly charges the respondent court with the commission of grave abuse of discretion the determination of which usually depends on the facts and circumstances of the points in controversy. * *.

It is noteworthy that Republic Act No. 5440 (eff., September 9, 1968) amended Section 17 of Republic Act No. 296, otherwise known as the Judiciary Act of 1948, by explicitly including the Court of Tax Appeals -- together with the Commission on Elections and such quasi-judicial agencies as the Court of Industrial Relations, the Public Service Commission and the Workmen's Compensation Commission -- as among the entities whose final judgments and decrees were subject to review by the Supreme Court "on certiorari as the law or rules of court may provide."

These provisions no longer control, in view of the comprehensive provisions of Batas Pambansa Bilang 129 granting to the Intermediate Appellate Court (now the Court of Appeals) "(e)xclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of subparagraph (1) of the third paragraphs and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948." The fact that, as the DBP argues, the Court of Tax Appeals is not among the agencies reorganized by said Batas Pambansa Bilang 129,¹ is of no moment. What is essential, and indisputable, is that that law did not, as the DBP imagines, deal only with "changes in the rules on procedures;" and that not only was the Court of Appeals reorganized, but its jurisdiction and powers were also broadened by Section 9 of the Batas. Its original jurisdiction to issue writs of mandamus, prohibition, certiorari, and habeas corpus, which theretofore could be exercised only in aid of its appellate jurisdiction, was expanded by (1) extending it so as to include the writ of quo warranto, and also (2) empowering it to issue all said extraordinary writs "whether or not in aid of its appellate jurisdiction." Its appellate jurisdiction was also extended to cover not only final judgments of Regional Trial Courts, but also "all final judgments, decisions, resolutions, orders, or awards of ** quasi-judicial agencies, instrumentalities, boards or commissions, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the provisions of this Act, and of sub-paragraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948," it being noteworthy in this connection that the text of the law is broad and comprehensive, and the explicitly stated exceptions have no reference whatever to the Court of Tax Appeals. Indeed, the intention to expand the original and appellate jurisdiction of the Court of Appeals over quasi-judicial agencies, instrumentalities, boards, or commissions, is further stressed by the last paragraph of Section 9 which excludes from its provisions, only the "decisions and interlocutory orders issued under the Labor Code of the Philippines and by the Central Board of Assessment Appeals."

Since final judgments or decrees of the Court of Tax Appeals are now within the exclusive appellate jurisdiction of the Court of Appeals, and since appeals by certiorari may properly be taken only to this Court, it follows that the mode of appeal from the Court of Tax Appeals to the Court of Appeals should be by notice of appeal cum petition for review, consistently with the mode of appeal from other quasi-judicial bodies and agencies prescribed by Republic Act No. 5434 (eff., September 9, 1968),² and that formerly provided for by Republic Act No. 1125, supra. It is on this basis that the interim or transitional rules adopted in this Court's en banc Resolution of January 11, 1983 on the subject prescribe that " ** appeals to the Intermediate Appellate Court from quasi-judicial bodies shall continue to be governed by the provisions of Republic Act No. 5434 insofar as the same is not inconsistent with the provisions of B.P. Blg. 129."¹

The Court also rejects the DBP's second argument, and expresses its entire agreement with the conclusion of the Court of Appeals -- and the basic premises thereof -- that there is an "irreconcilable repugnancy * * between

Section 7 (2) of R.A. No. 1125 and P.D. No. 242," and hence, that the later enactment (P.D. No. 242), being the latest expression of the legislative will, should prevail over the earlier.

IN VIEW OF THE FOREGOING, the Court Resolved to DENY the petition for lack of merit, and AFFIRM the challenged Decision of the Court of Appeals.

IT IS SO ORDERED.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

1 Rollo, p. 8

1 Id., p. 9

2 Id., pp. 21-25. The opinion was written for the Division by Lombos-de la Fuente, J., and concurred in by Martinez and Pe, JJ.

3 Entitled "(An Act) Prescribing the Procedure for Administrative Settlement or Adjudication of Disputes, Claims and Controversies Between or Among Government Offices, Agencies and Instrumentalities, including Government-Owned or Controlled Corporations, and for Other Purposes." The avowed purpose of the decree was "to avoid litigations in court where government lawyers appear for ** (government offices, agencies and instrumentalities) to espouse and protect their respective interests altho, in the ultimate analysis, there is but one real party in interest -- the Government itself -- in such litigations;" and to avoid, too, "needlessly contributing to the clogged dockets of the courts ** (and) dissipating or wasting the time and energies not only of the courts but also of the government lawyers and the considerable expenses incurred in the filing and prosecution of judicial actions."

1 Rollo, p. 24

2 Id., p. 28

3 Id., p. 10

1 Providing in part as follows: "Any party adversely affected by any ruling, order or decision of the Court of Tax Appeals may appeal therefrom to the Supreme Court by filing with the said Court a notice of appeal and with the Supreme Court a petition for review, within thirty days from the date he receives notice of said ruling, order or decision. * *."

2 * *. Any ruling, order or decision of the Court of Tax Appeals may likewise be reviewed by the Supreme Court upon a writ of certiorari in proper cases. Proceedings in the Supreme Court upon a writ of certiorari or a petition for review, as the case may be, shall be in accordance with the provisions of the Rules of Court or such rules as the Supreme Court may prescribe.

3 Collector of Internal Revenue v. Aznar, et al., 102 Phil. 979, 985-986 (Jan. 31, 1958)

1 The courts reorganized were the Intermediate Appellate Court (now the Court of Appeals, of course), the Courts of First Instance (now the Regional Trial Courts), and the City, Municipal and Municipal Circuit Courts (now the Metropolitan Trial Courts, the Municipal Trial Courts and the Municipal Circuit Trial Courts), said courts, together with the Supreme Court forming what is known as the "Integrated Judicial System" in this jurisdiction, as distinguished from other courts and quasi-judicial agencies.

2 The Act deals with appeals from the Court of Agrarian Relations; the Secretary of Labor under Section 7 of RA 602; the Department of Labor under Sec. 23, RA 875; the Land Registration Commission, the Securities and Exchange Commission, the Civil Aeronautics Board, the Patent Office, the Agricultural Inventions Board.

1 Par. 22 (c)

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