

PROVIDENT TREE FARMS, INC., PETITIONER, VS. HON. DEMETRIO M. BATARIO, JR., PRESIDING JUDGE OF BRANCH 48, REGIONAL TRIAL COURT OF MANILA, COMMISSIONER OF CUSTOMS AND A.J. INTERNA...

G.R. No. 92285. March 28, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

PETITIONER PROVIDENT TREE FARMS, INC. (PTFI), is a Philippine corporation engaged in industrial tree planting. It grows gubas trees in its plantations in Agusan and Mindoro which it supplies to a local match manufacturer solely for production of matches. In consonance with the state policy to encourage qualified persons to engage in industrial tree plantation, Sec. 36, par. (1), of the Revised Forestry Code[1] confers on entities like PTFI a set of incentives among which is a qualified ban against importation of wood and "wood-derived" products.

On 5 April 1989, private respondent A.J. International Corporation (AJIC) imported four (4) containers of matches from Indonesia, which the Bureau of Customs released on 12 April 1989, and two (2) more containers of matches from Singapore on 19 April 1989. The records do not disclose when the second shipment was released.

On 25 April 1989, upon request of PTFI, Secretary Fulgencio S. Factoran, Jr., of the Department of Natural Resources and Environment issued a certification that "there are enough available softwood supply in the Philippines for the match industry at reasonable price."[2]

On 5 May 1989, PTFI filed with the Regional Court of Manila a complaint for injunction and damages with prayer for a temporary restraining order against respondents Commissioner of Customs and AJIC to enjoin the latter from importing matches and "wood-derived" products, and the Collector of Customs from allowing and releasing the importations. It was docketed as Civil Case No. 89-48836 and raffled to respondent Judge Demetrio M. Batario, Jr. PTFI prays for an order directing the Commissioner of Customs to impound the subject importations and that AJIC be directed to pay petitioner P250,000.00 in actual damages, P1,000,000.00 in exemplary damages, and P50,000.00 as attorney's fees.

On 14 June 1989, AJIC moved to dismiss the complaint alleging that: (a) The Commissioner of Customs under Sec. 1207 of the Tariff and Customs Code and not the regular court, has "exclusive jurisdiction to determine the legality of an importation or ascertain whether the conditions prescribed by law for an importation have been complied with x x x x (and over cases of) seizure, detention or release of property affected x x x x;"[3] (b) The release of subject importations had rendered injunction moot and academic;[4] (c) The prayer for damages has no basis as the questioned acts of the Commissioner are in accordance with law and no damages may be awarded based on future acts;[5] and, (d) The complaint for injunction cannot stand it being mainly a provisional relief and not a principal remedy.[6]

PTFI opposed the motion to dismiss. On 28 July 1989, AJIC's motion to dismiss was denied. However, on 8 February 1990, on motion for reconsideration by AJIC and despite the opposition of PTFI, the Court reconsidered its 28 July 1989 order and dismissed the case on the ground that it had "no jurisdiction to determine what are legal or illegal importations." [7]

In this present recourse, PTFI seeks to set aside the 8 February 1990 order of respondent court and prays for the continuation of the hearing in Civil Case No. 89-48836. PTFI claims that what was brought before the trial court was a civil case for injunction, i.e., "restraining the entry of safety matches into the country x x x for the purpose of securing compliance with Sec. 36 (1) of the Forestry Code" and for damages, "to seek redress of its right which has been clearly violated by the importation of safety matches x x x x (which) is a denial to the petitioner of the protection and incentive granted it by Section 36 (1) of the Forestry Code x x x x" [8] PTFI asserts the inapplicability of the procedures outlined in R.A. No. 1125 relative to incidents before the Court of Tax Appeals because the instant action is not a protest case where the aggrieved party is not an importer. It then argues that since it could not avail of the remedies afforded by the Tariff and Customs Code, resort to the courts is warranted, citing *Commissioner of Customs v. Alikpala*. [9]

On the formal requirements, we hold that the claim of public respondent that the petition was filed late has no basis. The records revealed that PTFI received the assailed order of 8 February 1990 on 20 February 1990, [10] hence, it had until 7 March 1990 to file petition for review on certiorari. On that date, PTFI filed a motion for extension of fifteen (15) days within which to file the petition. [11] On 19 March 1990, this Court granted PTFI a thirty (30)-day non-extendible period to file its petition, [12] thus resetting the new deadline for the petition to 6 April 1990. On that date the petition was filed.

Petitioner anchors his complaint on a statutory privilege or incentive granted under Sec. 36, par. (1), of the Revised Forestry Code. The only subject of this incentive is a ban against importation of wood, wood products or wood-derived products which is to be enforced by the Bureau of Customs since it has, under the Tariff and Customs Code, the exclusive original jurisdiction over seizure and forfeiture cases [13] and, in fact, it is the duty of the Collector of Customs to exercise jurisdiction over prohibited importations. [14]

The enforcement of the import ban under Sec. 36, par. (1), of the Revised Forestry Code is within the exclusive realm of the Bureau of Customs, and direct recourse of petitioner to the Regional Trial Court to compel the Commissioner of Customs to enforce the ban is devoid of any legal basis. To allow the regular court to direct the Commissioner to impound the imported matches, as petitioner would, is clearly an interference with the exclusive jurisdiction of the Bureau of Customs over seizure and forfeiture cases. An order of a judge to impound, seize or forfeit must inevitably be based on his determination and declaration of the invalidity of the importation, hence, a usurpation of the prerogative and an encroachment on the jurisdiction of the Bureau of Customs. In other words, the reliefs directed against the Bureau of Customs [15] as well as the prayer for injunction against importation of matches by private respondent AJIC [16] may not be granted without the court arrogating upon itself the exclusive jurisdiction of the Bureau of Customs.

The claim of petitioner that no procedure is outlined for the enforcement of the import ban under the Tariff and Customs Code, if true, does not at all diminish the jurisdiction of the Bureau of Customs over the subject matter. The enforcement of statutory rights is not foreclosed by the absence of a statutory procedure. The Commissioner of Customs has the power to "promulgate all rules and regulations necessary to enforce the provisions of this (Tariff and Customs) Code x x x subject to the approval of the Secretary of Finance." [17] Moreover, it has been held that "x x x x (w)here the statute does not require any particular method of procedure to be followed by an administrative agency, the agency may adopt any reasonable method to carry out its functions." [18]

But over and above the foregoing, PTFI's correspondence with the Bureau of Customs[19] contesting the legality of match importations may already take the nature of an administrative proceeding the pendency of which would preclude the court from interfering with it under the doctrine of primary jurisdiction. In *Presidential Commission on Good Government v. Peña*,[20] we held that -

x x x x under the 'sense-making and expeditious doctrine of primary jurisdiction x x x the courts cannot or will not determine a controversy involving a question which is within the jurisdiction of an administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered (*Pambujan Sur United Mine Workers v. Samar Mining Co., Inc.*, 94 Phil. 932, 941 [1954].)

In this era of clogged court dockets, the need for specialized administrative boards or commissions with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or essentially factual matters, subject to judicial review in case of grave abuse of discretion, has become well nigh indispensable x x x x

Moreover, however cleverly the complaint may be worded, the ultimate relief sought by PTFI is to compel the Bureau of Customs to seize and forfeit the match importations of AJIC. Since the determination to seize or not to seize is discretionary upon the Bureau of Customs, the same cannot be subject of mandamus. But this does not preclude recourse to the courts by way of the extraordinary relief of certiorari under Rule 65 of the Rules of Court if the Bureau of Customs should gravely abuse the exercise of its jurisdiction. Otherwise stated, the court cannot compel an agency to do a particular act or to enjoin such act which is within its prerogative, except when in the exercise of its authority it gravely abuses or exceeds its jurisdiction. In the case at bench, we have no occasion to rule on the issue of grave abuse of discretion or excess of jurisdiction as it is not before us.

The petitioner's claim for damages against AJIC being inextricably linked with the legality of the importations, must necessarily rise or fall with the main action to bar the questioned importations. Petitioner's allegation that "(e)very importation of matches by said defendant is a denial to plaintiff of the protection and incentives granted it by Sec. 36 (1) of the Forestry Code,"[21] merely indicates its reliance on the illegality of the importations for its prayer for damages. In other words, if the importations were authorized, there would be no denial of the plaintiff's protection and incentives under the Forestry Code. Necessarily, the claim for damages must await the decision declaring the importations unlawful.

In *Rosales v. Court of Appeals*, we categorized a similar case for damages as premature since "(t)he finality of the administrative case which gives life to petitioners' cause of action has not yet been reached."[22] The pendency of petitioner's request to the Bureau of Customs for the implementation of the ban against the importation of matches under the Forestry Code is impliedly admitted; in fact, it is apparent from the correspondence of counsel for petitioner that the Bureau is inclined to sustain the validity of the importations.[23] Hence, as in *Rosales*, the order of the trial court granting the dismissal of the civil case must be upheld.

WHEREFORE, finding no reversible error in the appealed Order of the Regional Trial Court of Manila in Civil Case No. 89-48836 dated 8 February 1990, the same is AFFIRMED and, consequently, the instant petition for review is DENIED.

Cruz, (Chairman), J., no part.

Davide, Jr., Quiason, and Kapunan, JJ., concur.

[1] Sec. 36, par (1), of the Revised Forestry Code of the Philippines, P.D. No. 705, as amended by P.D. No. 1559 of 11 June 1978 provides: "x x x x No wood, wood products or wood-derived products including pulp, paper and paperboard shall be imported if the same are available in required quantities and reasonable prices, as may be certified by the Department Head, from artificial or man-made forests, or local processing plants manufacturing the same x x x x"

[2] Annex "B-1", Petition, Rollo, p. 37.

[3] Motion to Dismiss, pp. 2-3, Annex "C," Petition, Rollo, pp. 39-40.

[4] Id., p. 6, Rollo, p. 43.

[5] Id., pp. 6-7, Rollo, pp. 43-44.

[6] Id., p. 7, Rollo, p. 44.

[7] Order of 8 February 1990, Annex "A", Petition, Rollo, p. 28-29.

[8] Petition, pp. 6-9, Rollo, pp. 19-22.

[9] No. L-32542, 26 November 1970, 36 SCRA 208.

[10] Motion for Extension of Time to File Petition for Review on Certiorari, p. 1; Rollo, p. 2.

[11] Id.

[12] Rollo, p. 4-A.

[13] Sec. 602 (g), of the Tariff and Customs Code provides: "The general duties, powers and jurisdiction of the bureau shall include x x x x Exercise exclusive original jurisdiction over seizure and forfeiture cases under the tariff and customs laws."

[14] Sec. 1207, of the Tariff and Customs Code provides: "Where articles are of prohibited importation or subject to importation only upon conditions prescribed by law, it shall be the duty of the Collector to exercise such jurisdiction in respect thereto as will prevent importation or otherwise secure compliance with all legal requirements."

[15] x x x x A temporary restraining injunction/writ of preliminary injunction be issued against x x x x (d)efendant Commissioner of Customs, commanding and ordering said defendant from allowing the importation of matches and other derived products, or if such importations have been made and are in his custody, from releasing the same, as such importations is prohibited by law, i.e., Forestry Code, Section 36 x x x x After hearing, that said injunction be made permanent x x x x That defendant Commissioner of Customs be ordered to impound the shipments complained of x x x x" (Complaint, pp. 5-6, Rollo, pp. 34-35.)

[16] "x x x x A temporary restraining injunction/writ of preliminary injunction be issued against x x x x (d)efendant A.J. International Corporation, commanding and/or ordering said defendant to cease and desist from importing matches and/or wood derived products in violation of the Forestry Code x x x x After hearing, that said injunction be made permanent x x x x" (Complaint, pp. 5-6, Rollo, pp. 34-35.)

[17] Sec. 608, Tariff and Customs Code.

[18] 2 Am Jur 2d §340, pp. 155-156, citing Douglas County v State Bd. of Equalization & Assessment, 158 Neb 325, 63 NW 2d 449; State ex rel. York v Walla Walla County, 28 Wash 2d 891, 184 P 2d 577, 172 ALR 1001.

[19] Annex "A", Memorandum for Private Respondent, Rollo, p. 138-139. In part the letter of Siguion Reyna,

Montecillo & Ongsiako in behalf of PTFI to the Bureau of Customs, Collection District II-B, dated 10 January 1990 reads: "We refer to your letter December 7, 1989, which is in reply to our letter of November 4, 1989 requesting for the implementation of Section 36 (1) of the Forestry Code., i.e., prohibition on importation of safety matches. With due respect to the opinion rendered by your office that ' . . . there is no law or regulation prohibiting the importation of matches,' we wish to reiterate that Section 36 (1) of the Forestry Code clearly prohibits the importation of 'wood, wood products or wood derivated products.' x x x x With respect to your opinion that 'what is being protected is the matchwood timber industry, not the match industry,' we wish to emphasize that the survival of the match wood timber industry depends upon the survival of the local match industry the existence of which is gravely threatened by the importation of matches x x x x"

[20] No. L-77663, 12 April 1988, 158 SCRA 556, 567-568.

[21] Par. 10, Complaint, Annex "B," Petition, Rollo, p. 32.

[22] No. L-47821, 15 September 1988, 165 SCRA 344, 350.

[23] See note 19.

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