

FEEDER INTERNATIONAL LINE, PTE., LTD., BY ITS AGENT, FEEDER INTERNATIONAL (PHILS.) INC., PETITIONER, VS. COURT OF APPEALS, FOURTEENTH DIVISION, COURT OF TAX APPEALS, AND COMMISS...

G.R. No. 94262. May 31, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

The instant petition seeks the reversal of the decision of respondent Court of Appeals dated May 8, 1990, affirming the decision rendered by respondent Court of Tax Appeals which found the vessel M/T "ULU WAI" liable under Section 2530(a) of the Tariff and Customs Code of the Philippines (Presidential Decree No. 1464), as amended, and its cargo of 1,100 metric tons of gas oil and 1,000 metric tons of fuel oil liable under Section 2530(a), (f), and (l-1) of the same Code and ordering the forfeiture of the said vessel and its cargo.[1]

The facts as culled from the decision of the Court of Appeals in CA-G.R. SP No. 20470 are as follows:

"The M/T 'ULU WAI' a foreign vessel of Honduran registry, owned and operated by Feeder International Shipping Lines of Singapore, left Singapore on May 6, 1986 carrying 1,100 metric tons of gas oil and 1,000 metric tons of fuel oil consigned to Far East Synergy Corporation of Zamboanga, Philippines.

"On May 14, 1986, the vessel anchored at the vicinity of Guiuanon Island in Iloilo, without notifying the Iloilo customs authorities. The presence of the vessel only came to the knowledge of the Iloilo authorities by information of the civilian informer in the area. Acting on said information, the Acting District Collector of Iloilo dispatched a Customs team on May 19, 1986 to verify the report.

"The Customs team found out that the vessel did not have on board the required ship and shipping documents, except for a clearance from the port authorities of Singapore clearing the vessel for 'Zamboan.'

"In view thereof, the vessel and its cargo were held and a Warrant of Seizure and Detention over the same was issued after due investigation. The petitioner then filed its Motion to Dismiss and to Quash the Warrants of Seizure and Detention which the District Collector denied in his Order dated December 12, 1986.

"In the course of the forfeiture proceedings, the parties, through their respective counsel, agreed on a stipulation of facts, to wit:

'1. That the existence and identity of M/T "ULU WAI" subject of S1-2-86, herein identified as Exh. "A", is admitted;

'2. That the existence and identity of 1,100 metric tons of gas oil, subject of S1-2-86-A, herein identified as Exh. "B", is admitted;

'3. That the existence and identity of 1,000 metric tons of fuel oil, subject of S1-2-86 herein identified as Exh. "B-1", is admitted;

'4. That M/T "ULU WAI" left Singapore May 6, 1986 and was cleared by Singapore customs authorities for

Zamboanga, Philippines;

'5. That subject vessel arrived at Guiuanon Island, Municipality of Nueva Valencia, sub-province of Guimaras, Province of Iloilo, Philippines, about 1120HRS, May 14,1986;

'6. That subject vessel was boarded by Customs and Immigration authorities for the first time in the afternoon of May 19, 1986, at about 1600HRS;

'7. That an apprehension report dated May 21, 1986, submitted by the Team Leader of the Customs and Immigration Team, Roberto Intrepido, marked and identified as Exh. "C", is admitted;

'8. That at the time of boarding, the Master of subject vessel could not produce any ship and/or shipping documents regarding her cargo except the Port Clearance Certificate No. 179999 issued by the Port of Singapore authority dated May 4, 1986, marked as Exh. "D", which is hereby admitted;

'9. That on May 26, 1986, the Master of M/T "ULU WAI", Capt. Romeo E. Deposa filed a Marine Protest dated same date, which Marine Protest, marked and identified as Exh. "E", is hereby admitted;

'10. That the sworn statement of said Capt. Romeo E. Deposa, marked and identified as Exh. "F", given on May 26, 1986 before Atty. Hernando Hinojales, Customs Legal Officer, is admitted;

'11. That the sworn statement of Mr. Antonio Torres, Owner's representative of M/T "ULU WAI", marked and identified as Exh. "G" given before Atty. Hernando Hinojales on May 28, 1986, is admitted;

'12. That the sworn statement of Wilfredo Lumagpas, Master of M/T "CATHEAD" given before Lt. Dennis Azarraga on June 4, 1986, marked and identified as Exh. "H", is admitted;

'13. That the existence of Fixture Note No. FN-M-86-05-41 entered into by and between the National Stevedoring & Lighterage Corporation and the Far East Synergy Corporation, marked and identified as Exh. "I", is admitted; and

'14. That the Preliminary Report of Survey Sounding Report dated June 17, 1986, signed by J. P. Piad, Surveyor of Interport Surveying Services, Inc. and duly attested by Ernesto Cutay, Chief Officer of the M/T "ULU WAI" marked and identified as Exh. "J", is also admitted." [2]

On March 17, 1987, the District Collector issued his decision, with the following disposition:

"WHEREFORE, premises considered, the M/T 'ULU WAI' is hereby found guilty of violating Section 2530 (a) of the Tariff and Customs Code of the Philippines (PD 1464), as amended, while her cargo of 1,100 M/T Gas Oil and 1,000 M/T Fuel Oil are hereby found guilty of violating Section 2530 (a), (f), and (l-1) under the same Code and are hereby forfeited in favor of the Republic of the Philippines.

"SO ORDERED." [3]

Petitioner appealed to the Commissioner of Customs who rendered a decision dated May 13, 1987, the decretal portion of which reads:

"WHEREFORE, premises considered, the decision dated March 19, 1987 of the District Collector of Customs of Iloilo ordering the forfeiture of M/T 'ULU WAI' and its cargo of 2,100 metric tons of gas and fuel oil is hereby affirmed in toto.

"SO ORDERED." [4]

On June 25, 1987, petitioner filed a petition for review of the decisions of the Collector and the Commissioner of Customs with the Court of Tax Appeals, praying for the issuance of a writ of preliminary injunction and/or a restraining order to enjoin the Commissioner from implementing his decision.

On December 14, 1988, the Court of Tax Appeals issued its decision, with this dispositive portion:

"WHEREFORE, the decision of respondent Commissioner of Customs dated May 13, 1987, ordering the forfeiture of the vessel M/T 'ULU WAI' for violation of Section 2530(a) of the Tariff and Custom Codes (sic), as amended, and its cargo of 1,100 metric tons of Gas Oil and 1,000 metric tons of Fuel Oil for violation of Section 2530[*] (a) and (f), and (I-1) of the same Code, is hereby affirmed. With costs.

"SO ORDERED." [5]

Petitioner, on January 19, 1990, filed a petition for review of the Court of Tax Appeals' decision with this Court. On March 21, 1990, we issued a resolution [6] referring the disposition of the case to the Court of Appeals in view of our decision in *Development Bank of the Philippines vs. Court of Appeals, et al.* [7] holding that final judgments or decrees of the Court of Tax Appeals are within the exclusive appellate jurisdiction of the Court of Appeals.

On May 8, 1990, the Court of Appeals rendered its questioned decision affirming the decision of the Court of Tax Appeals. Petitioner's motion for reconsideration having been denied on July 4, 1990, it interposed this instant petition contending that:

1. The Court of Appeals erred in finding on the basis of circumstantial evidence that an illegal importation had been committed;
2. Petitioner was deprived of property without due process of law in that its right to be presumed innocent was not recognized and the decision was not supported by proof beyond reasonable doubt; and
3. The sworn statements of Deposa and Torres were taken without assistance of counsel in violation of their constitutional right thereto. [8]

We find no merit in the petition.

1. It must be here emphasized that a forfeiture proceeding under tariff and customs laws is not penal in nature, contrary to the argument advanced by herein petitioner. In the case of *People vs. Court of First Instance of Rizal, etc., et al.*, [9] this Court made an exhaustive analysis of the nature of forfeiture proceedings, in relation to criminal proceedings, as follows:

". . . It is quite clear that seizure and forfeiture proceedings under the tariff and customs laws are not criminal in nature as they do not result in the conviction of the offender nor in the imposition of the penalty provided for in Section 3601 of the Code. As can be gleaned from Section 2533 of the code, seizure proceedings, such as those instituted in this case, are purely civil and administrative in character, the main purpose of which is to enforce the administrative fines or forfeiture incident to unlawful importation of goods or their deliberate possession. The penalty in seizure cases is distinct and separate from the criminal liability that might be imposed against the indicted importer or possessor and both kinds of penalties may be imposed.

"In the case at bar, the decision of the Collector of Customs, as in other seizure proceedings, concerns the res rather than the persona. The proceeding is a probe on contraband or illegally imported goods. These merchandise violated the revenue law of the country, and as such, have been prevented from being assimilated in lawful commerce until corresponding duties are paid thereon and the penalties imposed and satisfied either in the form of fine or of forfeiture in favor of the government who will dispose of them in accordance with law. The importer or possessor is treated differently. The fact that the administrative penalty befalls on him is an inconsequential incidence to criminal liability. By the same token, the probable guilt cannot be negated simply because he was not held administratively liable. The Collector's final declaration that the articles are not subject to forfeiture does not detract his findings that untaxed goods were transported in respondents' car and seized from their possession by agents of the law. Whether criminal liability lurks on the strength of the

provision of the Tariff and Customs Code adduced in the information can only be determined in a separate criminal action. Respondents' exoneration in the administrative cases cannot deprive the State of its right to prosecute. But under our penal laws, criminal responsibility, if any, must be proven not by preponderance of evidence but by proof beyond reasonable doubt."

Considering, therefore, that proceedings for the forfeiture of goods illegally imported are not criminal in nature since they do not result in the conviction of the wrongdoer nor in the imposition upon him of a penalty, proof beyond reasonable doubt is not required in order to justify the forfeiture of the goods. In this case, the degree of proof required is merely substantial evidence which means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[10]

In the case at bar, we find and so hold that the Government has sufficiently established that an illegal importation, or at least an attempt thereof, has been committed with the use of the vessel M/T "ULU WAI," thus warranting the forfeiture of said vessel and its cargo pursuant to the provisions of the Tariff and Customs Code.

Before we proceed to a discussion of the factual findings of the Court of Appeals, it bears mention that petitioner, which is a corporate entity, has no personality to invoke the right to be presumed innocent which right is available only to an individual who is an accused in a criminal case.

2. The main issue for resolution is whether or not there was an illegal importation committed, or at least an attempt thereof, which would justify a forfeiture of the subject vessel and its cargo.

Petitioner avers that respondent court erred in finding that an illegal importation had been committed on the basis of circumstantial evidence, erroneously relying on Section 5 (now Section 4), Rule 133 of the Rules of Court. As earlier stated, forfeiture proceedings are not criminal in nature, hence said provision of Rule 133 which involves such circumstantial evidence as will produce a conviction beyond reasonable doubt does not apply.

Section 1202 of the Tariff and Customs Code Provides that importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unload therein. It is clear from the provision of the law that mere intent to unload is sufficient to commence an importation. And "intent," being a state of mind, is rarely susceptible of direct proof, but must ordinarily be inferred from the facts,[11] and therefore can only be proved by unguarded expressions, conduct and circumstances generally.[12]

In the case at bar, that petitioner is guilty of illegal importation, there having been an intent to unload, is amply supported by substantial evidence as clearly demonstrated by this comprehensive discussion in respondent court's decision:

"It is undisputed that the vessel M/T 'ULU WAI' entered the jurisdiction of the Philippines. The issue that calls for Our resolution is whether or not there was an intention to unload. The facts and circumstances borne by the evidence convince Us that there was intent to unload. The following circumstances unmistakably point to this conclusion.

"1. Considering that the vessel came from Singapore, the route to Zamboanga was shorter and Iloilo lies further north. It is not logical for the sailing vessel to travel a longer distance to get the necessary repairs.

"2. When the vessel M/T 'ULUWAI' anchored at Guiuanon Island, Guimaras, Iloilo, it did not notify the Iloilo port or Customs authorities of its arrival. The master of the vessel did not file a marine protest until 12 days after it had anchored, despite the supposed urgency of the repairs needed and notwithstanding the provision (Sec. 1016) of the Code requiring the master to file protest within 24 hours.

"3. At the time of boarding by the customs personnel, the required ship's and shipping documents were not on board except the clearance from Singaporean port officials clearing the vessel for Zamboanga. Petitioner

claims that these were turned over to the shipping agent who boarded the vessel on May 15, 1986. However, this claim is belied by the sworn marine protest (Exhibit 'E') of the master of M/T 'ULU WAI,' Mr. Romeo Deposa.

'It was only on or about the 20th of May when I instructed one of the crew to: get down of (sic) the vessel and find means and ways to contact the vessel's representative.'

Moreover, in such Sworn Statement (Exhibit 'G'), ship agent, Antonio Torres, stated that he did not know the buyer of the oil, which is impossible if he had the Local Purchase Order of the alleged buyer, Pogun Construction SDN. Torres also swore that his knowledge came from the vessel's owner, without mentioning the shipping documents which indicate such data. He also said that he did not know the consignee of the oil which would have been patent from the documents. Lastly, as also pointed out by the court a quo, the captain of the vessel M/T 'ULU WAI', Romeo Deposa, in his sworn statement to customs authorities on May 26, 1986, enumerated the documents he allegedly gave to Mr. Antonio Torres, but did not mention as among them the Local Purchase Order of Pogun Construction SDN and the Bill of Lading.

"4. When the vessel was inspected, the tugboat M/T 'CATHEAD', and the barge M/T 'SEMIRANO NO. 8109' were alongside it. A fixture note revealed that the barge and the tugboat were contracted by Consignee Far East Synergy to load the cargo of the vessel into the awaiting barge and to discharge the same to Manila (Exhibits 'I' and 'I-1').

It is of no moment that the fixture note did not expressly mention the vessel M/T ULU WAI'. Government witnesses, Asencio and Lumagpas, testified that it was the vessel's cargo which was to be unloaded and brought to Manila by them." [13]

The aforequoted findings of fact of respondent Court of Appeals are in consonance with the findings of both the Collector and the Commissioner of Customs, as affirmed by the Court of Tax Appeals. We, therefore, find no compelling reason to deviate from the elementary principle that findings of fact of the Court of Appeals, and of the administrative and quasi-judicial bodies for that matter, are entitled to great weight and are conclusive and binding upon this Court absent a showing of a grave abuse of discretion amounting to lack of jurisdiction.

3. The fact that the testimonies of Deposa and Torres were given without the assistance of counsel may not be considered an outright violation of their constitutional right to be assisted by counsel. As explained in the case of *Nera vs. The Auditor General*: [14]

"The right to the assistance of counsel is not indispensable to due process unless required by the Constitution or a law. Exception is made in the charter only during the custodial investigation of a person suspected of a crime, who may not waive his right to counsel except in writing and in the presence of counsel, and during the trial of the accused, who has the right 'to be heard by himself and counsel,' either retained by him or provided for him by the government at its expense. These guarantees are embodied in the Constitution, along with the other rights of the person facing criminal prosecution, because of the odds he must contend with to defend his liberty (and before even his life) against the awesome authority of the State.

"In other proceedings, however, the need for the assistance of counsel is not as urgent nor is it deemed essential to their validity. There is nothing in the Constitution that says a party in a non--criminal proceeding is entitled to be represented by counsel and that without such representation he will not be bound by such proceedings. The assistance of lawyers, while desirable, is not indispensable. The legal profession was not engrafted in the due process clause such that without the participation of its members the safeguard is deemed ignored or violated. The ordinary citizen is not that helpless that he cannot validly act at all except only with a lawyer at his side."

Besides, if ever there was any doubt as to the veracity of the sworn statements of Deposa and Torres, they should

have been presented during any appropriate stage of the proceedings to refute or deny the statements they made. This was not done by petitioner. Hence, the presumption that official duty was regularly performed stands. In addition, petitioner does not deny that Torres is himself a lawyer. Finally, petitioner simply contends that the sworn statements were taken without the assistance of counsel but, however, failed to allege or prove that the same were taken under anomalous circumstances which would render them inadmissible as evidence against petitioner. We thus find no compelling reason to doubt the validity or veracity of the said sworn statements.

WHEREFORE, the instant petition is DENIED for lack of merit and the judgment appealed from is hereby AFFIRMED in toto.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, and Padilla, JJ., concur.
Sarmiento, J., on leave.

[1] Penned by Associate Justice Conrado T. Limcaoco, with Associate Justices Arturo B. Buena and Socorro Tirona Liwag concurring; Petition, Annex "E"; Rollo, 85.

[2] Rollo, 86-89.

[3] Petition, Annex "P"; *ibid.*, 145.

[4] *Id.*, Annex "R"; *ibid.*, 154.

[*] Omitted in the original text.

[5] Penned by Presiding Judge Amante Filler, and concurred in by Associate Judges Constante C. Roaquin and Alex Z. Reyes; Petition, Annex "V"; Rollo, 210.

[6] Petition, Annex "D"; Rollo, 84.

[7] 180 SCRA 609 (1989).

[8] Rollo, 9-16.

[9] 101 SCRA 86 (1980).

[10] *Magistrado vs. Employees' Compensation Commission, et al.*, 174 SCRA 605 (1989); Section 5, Rule 133, Rules of Court.

[11] *Black's Law Dictionary*, 4th Ed., 947.

[12] *Moreno, Philippine Law Dictionary*, 3rd Ed., 484.

[13] Rollo, 92-93.

[14] 164 SCRA 1 (1988).

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