

ALEMAR'S (SIBAL & SONS), INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, RAMON FAROLAN, BIENVENIDO P. ALANO, JR., SENEN DIMAGUILA, COSME B. SEKITO, JR., MANUEL DIONALDO, I...

G.R. No. 94996. January 26, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is an appeal via certiorari from the decision[1] of the Court of Appeals dismissing the petition for certiorari with writ of injunction for lack of jurisdiction and thus affirming the order of the Regional Trial Court, Manila, Branch 54 also dismissing the petition filed thereat to enjoin respondents customs officials from delivering petitioner's importation of books and school supplies, declared abandoned and sold at auction to the buyer Luis Cua, for lack of jurisdiction.

The Facts

The facts, as narrated by the Court of Appeals, are as follows:[2]

- In September 1983, petitioner Alemars imported various books, office supplies and equipment from World International Publishing Ltd., Great Drive Street, Manchester, England covered by a letter of credit issued in its favor by Republic Planters Bank.
- On November 29, 1983, the shipment arrived in Manila, via S/S Nikolai Tikhonov covered by Bill of Lading No. MN 004 addressed to Republic Planters Bank, as consignee.
- Immediately thereafter, LBP International Philippines, Inc., the local agent of the carrier filed with the Bureau of Customs, an Inward Manifest after which the goods were unloaded and placed under the custody of the Bureau of Customs.
- In order to effect the release of the importation from the Bureau of Customs, the Republic Planters Bank (RPBank, for short), endorsed the Bill of Lading to Alemars and on November 12, 1984, RPBANK executed a Deed of Consignment with Alemars as its agent to sell the imported articles on commission basis.
- On November 27, 1984, Alemars applied with the Bureau of Customs for an Import Entry and Permit to Deliver Goods which was denied on the ground that the imported articles subject thereof had been declared abandoned under the Omnibus Notice and Declaration of Abandonment in Abandonment Proceedings No. 84-1643 of the Bureau of Customs.
- On December 4, 1984, Collector of Customs V – Port Collector Senen S. Dimaguila – issued a Notice and Declaration of Abandonment in Abandonment Proceedings No. 84-854 on all imported articles during the year 1982-1983, for which import entries have been filed but have remained unclaimed. The subject shipment belonging to petitioner was listed as “Reg. #345 1 lot assorted books (2,033 pkgs.) approx. 9 tons,

ALEMARS” on page 2 of the Memorandum dated December 3, 1984 by the Customs Examiner to the Auction and Cargo Disposal Division.

- The Notice of Declaration of Abandonment in Abandonment Proceedings No. 84-854 was never sent to Alemars nor to Republic Planters Bank, as provided under the pertinent provisions of the Tariff and Customs Code.

- Acting on the mistaken belief that its importation has been covered by Abandonment Proceedings No. 84-1643 instead of Abandonment Proceedings No. 84-854, Alemars, on December 12, 1984, filed with the Law Division, Bureau of Customs a letter expressly manifesting that it has no intention of abandoning subject shipment. The letter reads in part as follows:

“Please be informed that we have no intention to abandon the shipment and that the delay in filing the required entry form is due to our tight financial situation compounded by the robbery that happened last year. We wish to emphasize that if said shipment is not released immediately, some of our employees will be forced to resign.”

- On December 20, 1984, Manuel Ll. Dionaldo, Chief of the Law Division, issued a Memorandum to the Chief of the Auction and Cargo Disposal Division requesting the postponement of the scheduled auction sale of Lot No. 68 which includes subject importation.

- Despite the Memorandum, Cosme B. Sekito, Jr., Chief of the Auction and Cargo Disposal Division, proceeded also on December 20, 1984, with the scheduled auction sale of Lot 68. Luis Cua was the highest bidder.

- On January 7, 1985, the Bureau of Customs, acting through the Chief of the Auction and Cargo Disposal Division, Cosme B. Sekito, Jr., approved the bid of Luis Cua and issued a Delivery Permit over subject articles in favor of the latter.

- To prevent the delivery of the subject goods to Luis Cua and to obviate its subsequent sale and disposition which would render whatever claims it has over said goods ineffective, Republic Planters Bank filed on January 22, 1985, with the Regional Trial Court, Manila, a petition for prohibition with preliminary prohibitory injunction and/or restraining order against respondents to enjoin them from releasing and delivering subject goods to Luis Cua. The petition was subsequently amended to include Alemars as petitioner. This amended petition additionally sought the nullification of the Notice and Declaration of Abandonment for lack of a written notice to both Alemars and RPBANK, as required by Section 1801 of the Tariff and Customs Code in relation to Section 2303 of the same Code, as well as the invalidation of the corresponding auction sale of the subject imported goods.

- On the same date, January 22, 1985, the trial court issued a temporary restraining order enjoining respondents from “releasing and delivering to Luis Cua subject importation covered in Bill of Lading No. MN004 consisting of books and school supplies/equipment, which had been made part and portion of Sale Lot No. 68 in the public auction sale held on December 20, 1984.”

- On February 11, 1985, the trial court issued an order, the dispositive portion of which is as follows:

“WHEREFORE and in view of all the foregoing, the Court reached the considered opinion that the instant case must be dismissed for want of jurisdiction. This dismissal order likewise includes the counterclaim of private respondent.

“The restraining order previously issued is also considered withdrawn and the petitioners are advised to pursue their case before the proper forum as abovestated.

“The Court makes no pronouncement as to costs.

“SO ORDERED.”[3]

- On February 12, 1985, Republic Planters Bank and Alemars filed with the Court of Appeals a petition for certiorari with injunction with prayer for a writ of preliminary injunction and restraining order on the ground that respondent Judge committed a grave abuse of discretion in dismissing the petition for lack of jurisdiction considering that:

(a)

The petition in the lower court is for annulment of the abandonment proceedings and the auction sale, a cause of action which is incapable of pecuniary estimation, hence, within the exclusive jurisdiction of the Regional Trial Court;

(b)

Petitioners will suffer grave and irreparable injury if respondents will not be enjoined from delivering subject importation to private respondent Luis Cua;

(c)

The abandonment proceedings initiated by respondents violates procedural due process which is tantamount to deprivation of property;

(d)

The principle of exhaustion of administrative remedies is not applicable in the case at bar.[4]

- On August 20, 1990, the Court of Appeals promulgated its decision dismissing the petition.”[5]

Hence, the present recourse.[6]

The Issue

Whether the Regional Trial Court, Manila has jurisdiction over the subject matter of the petition filed by Alemars and RPBANK to enjoin the auction sale of subject goods imported by petitioners declared by customs authorities as abandoned.

The Court’s Ruling

The jurisdiction of the court is conferred by the Constitution and by the laws in force at the time of the commencement of the action.[7]

It is a basic rule of procedure that “jurisdiction of the court over the subject matter of the action is determined by the allegations of the complaint, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The jurisdiction of the court can not be made to depend upon the defenses set up in the answer or upon the motion to dismiss, for otherwise, the question of jurisdiction would almost entirely depend upon the defendant.”[8] “What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments therein and the character of the relief sought are the ones to be consulted.”[9]

Petitioner primarily seeks the annulment of the act of the Collector of Customs declaring the subject importation abandoned and ordering it sold at public auction, claiming that the abandonment proceeding held by the Collector of Customs was irregular since the latter did not give notice to petitioner of the abandonment before declaring the importation abandoned.

Consequently, the case falls within the jurisdiction of the Commissioner of Customs and the Court of Tax Appeals vis-à-vis the averments in the amended petition, not with the regional trial court.

Petitioner failed to comply with its obligation with respect to the subject importation. As will be noted, petitioner and Republic Planters Bank “attempted to file the permit to Deliver Goods on or about December 3, 1984” which attempt was the first time they showed any interest in claiming subject importation. The attempt, however, was made more than one (1) year after the subject importation arrived on November 29, 1983.

If petitioner was not satisfied with the action of the Collector of Customs, it may avail itself of the administrative remedies provided for in the Tariff and Customs Code.

However, petitioner sought recourse in the trial court. Such recourse was fatal to petitioner’s cause as the proper remedy was to elevate the case to the Commissioner of Customs whose decision was appealable to the Court of Tax Appeals.[10] “The Regional Trial Courts are precluded from assuming cognizance over such matters even through petitions of certiorari, prohibition or mandamus.”[11]

The Fallo

WHEREFORE, the Court DENIES the petition for lack of merit.

No costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G.R. SP No. 05397, promulgated on August 20, 1990, Francisco, C., J., ponente, De Pano and Magsino, JJ., concurring. Petition, Annex “B”, Rollo, pp. 31-41.

[2] Not quoted verbatim.

[3] Petition, Annex “B”, Rollo, pp. 31-41, at pp. 32-34.

[4] Docketed as CA-G. R. SP No. 05397.

[5] Petition, Annex “B”, Rollo, pp. 31-41.

[6] Petition, filed on October 13, 1990, Rollo, pp. 7-27. On April 6, 1992, we gave due course to the petition. Rollo, p. 117.

[7] Villamor v. Luciano, 88 SCRA 156 [1979].

[8] Serdoncillo v. Benolirao, 297 SCRA 448 [1998], citing cases; San Miguel Corp. v. National Labor Relations Commission, 325 Phil. 401 [1996].

[9] Serdoncillo v. Benolirao, supra, Note 6, citing Banayos v. Susana Realty, Inc., 71 SCRA 557 [1976].

[10] Republic v. Court of First Instance of Manila, 213 SCRA 222 [1992].

[11] Jao v. Court of Appeals, 319 Phil. 105, 114 [1995].

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