

ANDRES M. SEÑERES, IN HIS CAPACITY AS COLLECTOR OF CUSTOMS FOR THE PORT OF ILOILO, GIL B. ARMADA, IN HIS CAPACITY AS ACTING DEPUTY COLLECTOR OF CUSTOMS FOR THE PORT OF ILOILO, A...

G.R. Nos. 32921-40. June 10, 1971

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Original action for certiorari and prohibition challenging the jurisdiction of respondent judge of the Court of First Instance of Iloilo to take cognizance of twenty separate petitions for mandamus with preliminary mandatory injunction filed by private respondents and to issue orders for the release from customs custody of forty crates of imported articles described to be used sheet containers and used sample wood panels and other similar articles but reported upon customs examination to be parts of slot and jackpot machines.

The twenty pairs of respondents, totalling forty of them all with given addresses at Manila, Quezon City and Rizal, are conceded-ly the consignees of the forty crates which arrived at the port of Manila on board the M/S "Tagaytay" and were trans-shipped to the port of Iloilo arriving there on November 5, 1970 on board the M/B "Don Camilo".

Claiming that petitioners customs authorities of Iloilo had re-fused to act on the informal entries filed for the release of the forty crates, without requiring them either to submit additional documents but refusing to accept payment of the takes, duties and other charges allegedly due on the shipments and without instituting seizure proceedings against the shipments, the forty respondents, through respective designated attorneys-in fact (twenty of them representing the twenty pairs of consignees, at one crate per consignee) filed December 10, 1970, through common counsel, Atty, Romeo F. Zamora,[1] the twenty separate petitions for mandamus with respondent court.[2] Respondents alleged uniformly in their petitions that they had learned that in mid-November of 1970, the 40 crates had been opened, examined and inventoried by the customs authorities' without due notice to them and were found to contain parts of slot machines, which are of prohibited importation under section 102 (e) of the Tariff and Customs Code, but that they were submitting to respondent court for "judicial interpretation" the proposition that the cited provision "does not prohibit parts only thereof, but only those complete and assembled units so that the same can be utilized for gambling purpose, which the law prohibits. "

Respondents prayed respondent judge for the immediate issuance of a preliminary mandatory injunction for the release under bond of the shipments alleging that otherwise "upon notice to respondent [collector] of instant petition, the respondent [collector] will immediately institute seizure proceedings over subject shipments thereby divesting and/or abetting (sic) this Court from acquiring jurisdiction over the subject matter and making the petition at bar academic and moot to the irreparable and great damage of your petitioners." Respondents, without any appraisal of the collector or his examiners, unilaterally computed by themselves the specific amounts allegedly due by way of "total lawful taxes, duties and other charges due on the shipments" and prayed respondent

judge to issue a writ of mandamus "commanding the respondent [collector] to accept (their) payment" therefor.

Late in the afternoon of December 11, 1970, without summons having been issued by respondent court, respondents' counsel served upon petitioner deputy collector Armada a notice addressed to petitioner collector Señeres that he would submit his petitions for preliminary mandatory injunction for the respondent court's resolution at 8:30 a.m., the next day, December 12, 1970. Armada refused to receive the notice since it was addressed to the collector who was in Manila on official business and since no court summons had been issued in the said cases as to place him under the jurisdiction of respondent court.[3]

On December 12, 1970, respondent judge nevertheless issued ex-parte his order of the same date granting the writs of preliminary mandatory injunction prayed for by the forty respondents in the twenty cases below, upon the filing of bonds amounting to double the amounts unilaterally computed by respondents as the amounts of taxes, duties and charges payable by them[4] and directing the release unto petitioners of the questioned articles. Respondent judge premised his ex-parte mandatory injunction order inter alia "that said provision (sec. 102 (e) of the Tariff and Customs Code) relied upon by the respondent does not prohibit importation of parts thereof but only those complete and assembled units, thereby requiring the interpretation of the same which is a proper function of this Court; that it is the sense of this Court that the instant importation does not fall as a prohibited importation within the purview of the provisions of law aforequoted as they are merely spare parts and not machines and not jackpot machines and pinball machines or similar contrivances that the petitioners have established their clear legal right to claim the subject shipment x x x; that respondent's unwarranted and unjust refusal to act on the corresponding entry without instituting any seizure proceedings against subject shipments and in not allowing the petitioners to pay the lawful taxes due thereon, thereby hindering the ultimate release of said shipment to the petitioners has caused great and irreparable damage and injury to the herein petitioners x x x".

The required bonds were filed on the same day, December 12, 1970, and the order and writ of preliminary mandatory injunction were served in the afternoon of the same day on petitioner wharfinger Hortillosa. It was also on the same day, December 12, 1970, only that respondent judge issued his order of the same date finding "the instant petitions for mandamus sufficient in form and substance" and requiring petitioner collector Señeres as therein respondent to answer the petition within ten days.[5]

Petitioner collector filed on December 14, 1970 an urgent motion to dissolve the writ of preliminary mandatory injunction for the release of the slot machine parts, on the grounds, inter alia, of respondent court's lack of jurisdiction over the subject matter, respondents' lack of cause of action, the grave and irreparable damage that would be caused to the Government and grave abuse of discretion and violation of the Rules in the issuance of the writ.[6] Petitioner movant attached to his petition the very letter of December 4, 1970 of Eduardo Ramila as representative of the forty respondents-consignees asking for a 10-day extension at least to file entries for the forty shipments "on the ground that the complete shipping documents are not as yet received for reasons not presently known to the above consignees"[7] and informed respondent judge that as of then, respondents had not yet filed the necessary documents but had nevertheless filed their premature petitions with the court for mandamus to order the release of the articles.

Respondent judge denied dissolution of his mandatory injunction per his order of December 15, 1970, summarily disregarding the statutes and jurisprudence cited by petitioner and peremptorily ruling that "(T)here can hardly be any question that since the nature of the cause of action in this proceedings is mandamus, this Court is vested with jurisdiction to entertain the same more so because the cause involves a justiciable controversy between the parties in the interpretation of a provision of the Tariff and Customs Code of the Philippines (Sec. 102, par. 'e'), which calls for the exercise of the interpretative power of the Court." [8]

On the next day, December 16, 1970, respondents filed an urgent motion to cite petitioners Armada and Hortillosa for contempt and to authorize the sheriff to break open the bodega under the custody of wharfinger Hortillosa to effect release of the forty crates.

Respondent judge overruled petitioners' opposition per his order of December 17, 1970, took the wharfinger's manifestation that he could not release the articles pursuant to the mandatory writ except after pro-per identification of respondents-consignees and completion of the documents necessary and required of all importers for release from customs of articles imported into the country as "a deliberate move to delay if not render the writ ineffective" and ordered wharfinger Hortillosa "to open the customs bodega, release and deliver the subject articles to the Provincial Sheriff of Iloilo or his authorized deputy, and in the event of the failure and/or refusal of the former, the Provincial Sheriff or his Deputy is hereby authorized, as prayed for, to break open the pad-lock of the bodega where subject goods are contained for him to effect delivery to the petitioners herein.[9] Respondent judge further set the contempt hearing for December 23, 1970 at 8:30 a. m.

Hence, the present action. The Court per its resolution of December 28, 1970 required respondents to answer the petition and issued a writ of preliminary injunction enjoining the enforcement of respondent judge's orders and writ of mandatory injunction and restraining respondent judge from taking any further cognizance of the twenty cases before him.

1. It is the settled law and jurisprudence in this jurisdiction that the customs authorities acquire exclusive jurisdiction over goods sought to be imported into the Philippines, for the purpose of enforcement of Philippine customs laws, from the moment the goods are actually under their possession and control, even if no warrant for seizure or detention thereof has previously been issued by the port collector of customs. The port collector is called upon to "cause all such articles to be appraised and classified, and shall assess and collect the duties, taxes and other charges thereon, and shall hold possession of all imported articles upon which duties, taxes, and other charges have not been paid or secured to be paid disposing of the same according to law." [10] When the goods are challenged as being of prohibited importation and the collector questions the legality of the importation, as in the case of the jackpot machine parts at bar, the law expressly imposes upon the collector the obligation "to exercise such jurisdiction in respect thereto as will prevent importation". [11]

The collector's decision may be appealed to the commissioner of customs, whose decision, inter alia, in cases involving seizure, detention or release of property affected, may in turn be reviewed only by the Court of Tax Appeals under the exclusive appellate jurisdiction conferred on said court under section 7 of Republic Act 1125. [12]

2. Respondent court manifestly had no jurisdiction to interfere with the Iloilo port customs authorities' custody over the forty crates of alleged slot machine and jackpot machine parts sought to be imported under respondents' misdeclaration of their being merely used sheet and meal containers and panels, much less to order their forcible release notwithstanding their entry not yet having been covered by the required entry documents nor the collector having directed their appraisal, since he was preparing seizure and forfeiture proceedings against the forty crates for being of prohibited importation and unmanifested in violation of section 2530 (f) and (g) of the Tariff and Customs Code and Central Bank Circular No. 265. In fact, the collector did issue the corresponding warrant of seizure and detention under date of December 17, 1970 [13] and notices dated January 27, 1971 were sent in Seizure Identification Case No. 13-70 [14] advising respondents the hearings to be held on February 15 to 17, 1971 by the collector's hearing officer for the forfeiture of the forty crates. [15]

As held by the Court in the 1966 leading case of *Pacis vs. Averia* [16] where the Court emphasized the need of the cooperation of all branches of the Government for the success of the law enforcement agencies in curbing

smuggling - by virtue of the enactment of the Tariff and Customs Code (Rep. Act 1937) as well as the Court of Tax Appeals Law (Rep. Act 1125), "on grounds of public policy, it is more reasonable to conclude that the legislators intended to divest the Court of First Instance of the prerogative to replevin a property which is a subject of a seizure and forfeiture proceedings for violation of the Tariff and Customs Code. Other-wise, actions for forfeiture of property for violation of Customs laws could easily be undermined by the simple device of replevin.

"Furthermore, Section 2303 of the Tariff and Customs Code re-quires the Collector of Customs to give to the owner of the property sought to be forfeited written notice of the seizure and to give him the opportunity to be heard in his defense. This provision clearly indicates the intention of the law to confine in the Bureau of Customs the determina-tion of all questions affecting the disposal of property proceeded against in a seizure and forfeiture case. The judicial recourse of the property owner is not in the Court of First Instance but in the Court of Tax Appeals, and only after exhausting administrative remedies in the Bureau of Cus-toms."[17]

3. In the early 1967 case of Commissioner of Customs vs. Cloribel,[18] respondent judge's fallacious concepts that his court may assume and exercise jurisdiction in mandamus cases involving the exercise of its "interpretative power" over disputed provisions of the Tariff and Customs Code were long laid to rest. The Court, in no un-certain terms, there pointed out that in cases of illegal importation, as in the case at bar, the Commissioner of Customs must first review the collector's ruling and "by a formal decision" rule on the legality of the importation. It is only after a decision adverse to the importer is rendered that the importer may then "summon the aid of the Corres-ponding court." But such disposition of the customs commissioner, the Court stressed, "will not come under the court of first instance on appeal. Such appeal shall be addressed to the court of tax appeals. Because, at bottom, the problem is: Was the importation authorized by law? "

The Court then cited the early 1955 jurisprudence[19] that "x x x Section 7 of Republic Act No. 1125 has taken away the power of courts of first instance to review the actuations of the customs autho-rities in a case involving seizure, detention or release of property, or other matters arising under the Customs Law or other law administered by the Bureau of Customs. And this, notwithstanding the fact that com-plaints may be styled 'mandamus', 'prohibition' or 'certiorari'. For, in reality, these are but expressions in varying forms of a petition to review the actuations of the customs authorities. Expressive of the rule is our opinion in the Millarez case, viz:

'Republic Act No. 1125, section 7, effective June 16, 1954 gave the Court of Tax Appeals exclusive appellate jurisdiction to review on appeal, decisions of the Com-missioner of Customs, involving 'seizure, detention or release of property affected x x x or other matters arising under the Customs Law or other law administered by the Bureau of Customs.' In our opinion this provision necessarily has taken away the power of the Manila court of first instance to 'review' decisions of the Customs au-thorities, 'in any case of seizure' - as in this case - under section 1383 et seq. of the Revised Administrative Code.'

"It matters not that no seizure proceedings were had. Section 7 of the charter of the Court of Tax Appeals does not limit the appellate jurisdiction of said court to seizure proceedings. The law employs the term 'seizure, detention or release.'"

4. Papa vs. Mago[20] reiterated the doctrine of the lack of jurisdiction of the regular courts of first instance over customs authorities in the enforcement of customs laws, thus: "It is the settled rule, therefore, that the Bureau of Customs acquires exclu-sive juris-diction over imported goods, for the purposes of enforcement of the customs laws, from the moment the goods are actually in its possession or control, even if no warrant of seizure or detention had previously been issued by the Collector of Customs in connection with seizure and forfeiture proceedings."

In the recent case of *Ponce Enrile vs. Vinuya*,^[21] reaffirming anew the settled doctrine of *Papa and Pacis vs. Averia*, supra, the Court, per Mr. Justice Fernando, emphasized anew that the regular courts of first instance are "devoid of jurisdiction" to issue replevin or release orders for goods under customs custody: "(R)espondents, however, notwithstanding the compelling force of the above doctrines, would assert that respondent Judge could entertain the replevin suit as the seizure is illegal, allegedly because the warrant issued is invalid and the seizing officer likewise was devoid of authority. This is to lose sight of the distinction, as earlier made mention of, between the exist-ence of the power and the regularity of the proceeding taken under it. The governmental agency concerned, the Bureau of Customs, is vested with exclusive authority. Even if it be assumed that in the exercise of such exclusive competence a taint of illegality may be correctly imputed, the most that can be said is that under certain circumstances the grave abuse of discretion conferred may oust it of such jurisdiction. It does not mean however that correspondingly a court of first instance is vested with competence when clearly in the light of the above decisions the law has not seen fit to do so. The proceeding before the Collector of Customs is not final. An appeal lies to the Commissioner of Customs and there-after to the Court of Tax Appeals. It may even reach this Court through the appropriate petition for review. The proper ventilation of the legal issues raised is thus indicated. Certainly a court of first instance is not therein included. It is devoid of jurisdiction."

5. The doctrine was last reaffirmed anew in *Luna vs. Pacis*,^[22] -where the Court, per Mr. Justice Zaldivar, affirmed the court of first instance's 1964 order dismissing and disclaiming jurisdiction over a mandamus action instituted by therein appellant to seek release of for-feited property from the Manila customs authorities, on the settled doctrine of the 1955 case of *Millarez*, maintaining the exclusive appellate jurisdiction of the Court of Tax Appeals over decisions of the customs commis-sioner, as subsequently reiterated by the Court in a long line of decisions^[23] and from which the Court has found no plausible reason to depart.

6. Indeed, prescinding from the patent lack of jurisdiction of respondent court over the mandamus cases filed in the court below, the Court finds that respondent judge proceeded in gross disregard of the Rules of Court in hearing the petitions on December 12, 1970 ariā peremptorily issuing on the same date his mandatory order and writ for the release upon bond of the forty crates, even before he had found, as required by the Rules,^[24] the petitions to be sufficient in form and substance, and caused the issuance of summons to petitioner collector (as respondent therein). Petitioner deputy collector Armada was wholly justified in refusing to receive on the preceding afternoon respondents' counsel's notice to petitioner collector that he would submit the next morning to respondent judge his "urgent" petitions for pre-liminary mandatory injunction, since no summons had then as yet been issued to said petitioner as to place him under the respondent court's jurisdiction and respondents' counsel had no authority whatsoever under the Rules to serve any binding notice with regard to his petitions, which had not yet been given due course by respondent court, such as to require said petitioner to have been present on the next morning before respondent court.

7. Respondent judge likewise appears to have cast aside the basic postulates governing the issuance of preliminary mandatory in-junction orders, as restated by Mr. Justice Sanchez for the Court in *Cloribel*,^[25] supra: "(B)y Section 1, Rule 58, 1964 Rules of Court, it is now expressly provided - though already long generally recognized - that a court, at any stage of an action prior to final judgment, may require the performance of a particular act, in which case it shall be known as a preliminary mandatory injunction.' But, stock must be taken of the truism that, like preventive injunctions, it is but a provisional remedy to which parties may resort 'for the preservation or protection of their rights or interests, and for no other purpose, during the pen-dency of the principal action.' More than this, as a mandatory injunc-tion 'usually tends to do more than to maintain the status quo, it is generally improper to issue such an injunction prior to the final hearing. Per contra, it may issue 'in cases of extreme urgency; where the right is very clear; where considerations of relative inconvenience bear strong-ly in complainant's favor; where there is a willful and unlawful invasion of plaintiff's right against his protest and

remonstrance, the injury being a continuing one; and where the effect of the mandatory injunction is rather to reestablish and maintain a preexisting continuing relation between the parties, recently and arbitrarily interrupted by the defendant, than to establish a new relation.' Indeed, 'the writ should not be denied the complainant when he makes out a clear case, free from doubt and dispute.' "

In the case at bar, respondent judge's mandatory writ obviously was not designed to maintain the status quo. Neither had respondents made out "a clear case free from doubt and dispute." To paraphrase Cloribel, the most convincing argument, of course, is that to enforce respondent judge's writ for the release of the forty crates of slot and jackpot machine parts, would have been practically to decide the case in favor of respondents. In just one ex-parte hearing and without any evidence of his having reflected on his court's lack of jurisdiction over the subject-matter, respondent judge had indeed pre-judged the petitions before him and already expressed his "sense" in his order of December 12, 1970 that the importation of the forty crates were not of prohibited importation and could not be deemed covered by section 102 (e) of the customs code, "as they are merely spare parts and not machines and not jackpot machines and pinball machines or similar contrivances." As in the case of Cloribel, "to proceed with the case below on the merits would then be a useless ceremony" because respondents would have gotten already what they wanted in their suits below, i.e. release of the forty crates, and the government would have lost its lawful hold on the controverted shipments of slot machine parts and "literally shall have been left 'holding the bag' ". The questioned illegal articles would then have been released from customs, despite the Tariff and Customs Code's prohibition, by virtue of respondent judge's orders peremptorily and hastily issued without jurisdiction, and would have been quickly disposed of by respondents-consignees, presumably at great profit to service the various illegal jackpot machines in the country or to be assembled as complete units and no subsequent corrective order of any court would have availed to re-cover the articles and bring them back to the custody of the customs authorities, for forfeiture and eventual destruction, if ultimately ruled by proper competent authorities to be of prohibited importation.

8. The government attorneys thus appear to have valid ground for complaining of respondent judge's orders of December 12, 15 and 17, 1970, having been precipitously granted, to the extent of authorizing the destruction of the customs warehouse padlock to enable respondents to forcibly realize "their scheme to obtain possession of the imported articles" before this Court could act on the petition filed on December 21, 1970, expecting that the Court might not hold sessions until after the long Christmas holidays and thus render moot and academic the petition with its prayer for a restraining order against enforcement of the challenged orders, with grave and irreparable damage to the public interest.[26]

Respondent judge, notwithstanding his attention having been timely called, by petitioners in their urgent motion of December 14, 1970 for dissolution of the mandatory injunction, to the settled law and jurisprudence on his court's lack of jurisdiction and this Court's admonition against the precipitous issuance of injunctive writs, appears to have failed to pay due heed thereto. Mr. Justice Reyes' injunction for the Court in *Palanan Lumber & Plywood, Inc. vs. Arranz*[27] is apropos: "(I)t is not amiss to recall here that time and again[28] this Court has had occasion to deplore the readiness of some judges to grant and issue in-junctions ex parte against acts of public functionaries, ignoring the pre-sumption of regularity and validity of official actuations, in disregard of the deference and courtesy due to a co-ordinate branch of the government, and with no other guide than the far from impartial assertions in pleadings of interested parties, which a summary hearing would have shown to be either dubious or unfounded. The result has been that all too often, the public interest has been prejudiced through unnecessary delays. It bears repeating here that preliminary injunctions remain extraordinary remedies that should be dispensed with circumspection, and that both sides should be first heard whenever possible."

9. Finally, per its resolution of March 18, 1971, the Court required counsel for respondents, Atty. Zamora,

"considering the fact of record that all the shipments were consigned to the port of Iloilo while all the consignees are residents of Manila, Quezon City and Rizal, to submit with his memorandum the name(s) of the person or persons who employed him as well as copies of any written contracts for his legal services executed by him with the twenty pairs of respondents and/or with their respective attorneys-in-fact." In his compliance dated April 12, 1971, Atty. Zamora manifested that "his legal services (sic) for said cases was verbally engaged first by respondents' attorneys-in-fact Messrs. Alberto Belardo, Ricardo Cordero, Renato Nable, Romeo Bautista and Agustin Revilla for the respective shipments of consignees-respondents that they represent. Subsequently, the other above-named attorneys-in-fact followed in verbally employing my professional services, likewise, for respective consignees-respondents that they represent. Hence, being the attorney of record of the above-named respondents whose respective shipments are similarly situated, I deemed it wise to file similar or identical petition with the court below (respondent court)."

The Court is intrigued by the fact of record that 40 individuals -private respondents - all with given addresses in Manila, Quezon City and Rizal would be the consignee each of a crate of 40 shipments apparently misdeclared as used metal containers and other articles of similar nature but actually consisting of slot or jackpot machine parts; that the entire forty crates would be shipped on the same vessel from Singapore for Manila with instructions to trans-ship to the port of Iloilo; and that said forty respondents-"consignees" have apparently not acted on their own account but through designated attorneys-in-fact duly pre-authorized to clear their shipments as well as to engage verbally the services of common counsel for the purpose. The Court therefore directs the Solicitor-General to investigate the matter further with the assistance of the appropriate governmental investigative agency and to ascertain the true facts of the transaction, and the identity and participation of private respondents and their attorneys-in-fact, as well as the full facts of how they came to engage the services of their common counsel, Atty. Zamora, and to inform the Court in due course of the results of such investigation and the appropriate action taken thereon, if any.

ACCORDINGLY, the writs of prohibition and certiorari prayed for are granted, respondent court being clearly without jurisdiction over the subject matter of Civil Cases Nos. 8449 to 8468 filed before it, which cases respondent judge is hereby ordered to dismiss. The order and writ of preliminary mandatory injunction of December 12, 1970 as well as the other orders of December 15, 1970 and December 17, 1970 (Annexes C, C-1, G and J, petition) issued by respondent judge are declared null and void, and the writ of preliminary injunction heretofore issued by this Court is made per-manent. With costs against private respondents.

The Clerk of Court is directed to furnish copy of this decision to the Honorable, the Secretary of Justice, particularly with reference to the matters dealt with in paragraphs 6 to 8 thereof. He is likewise directed to furnish copy hereof to the Honorable, the Solicitor General, with particular reference to the matters dealt with in paragraph 9 thereof.

SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Fernando, Barredo, Villamor, and Makasiar, JJ., concur.
Castro, J., on leave.

[1] With address at 15-C Road 6, Project 6, Quezon City (his former address as given to respondent court was Rm. 706, Katigbak Bldg., Manila)

[2] Docketed as Civil Cases Nos. 8449 to 8468 of respondent court.

[3] Annex E-3, Petition.

[4] Annex C, Petition. The bonds fixed by respondent judge ranged from P900.00 to P3,000.00 per case (each case covering two crates) and totalled P35,900.00 for all twenty cases.

[5] Annex D, Petition.

[6] Annexes E, E-1 to E-3, Petition.

[7] Annex E-1, Petition.

[8] Annex G, Petition.

[9] Annex J, Petition.

[10] Sec. 1206, Tariff and Customs Code (Rep. Act 1937).

[11] Sec. 1207, *idem.* provides: "Jurisdiction of Collector over articles of prohibited importation. - 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.

[12] Its pertinent provision:

"Jurisdiction. - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -

"xxxxx xxxxx xxxxx

"(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs."

[13] Respondents' memorandum, p. 9.

[14] Entitled "Republic of the Philippines vs. Forty (40) crates jackpot machine parts which arrived at the port of Iloilo on November 5, 1970."

[15] Respondents' memorandum, p. 7 and Annex "1".

[16] 18 SCRA 907 (Nov. 29, 1966).

[17] Emphasis furnished.

[18] 19 SCRA 234 (Jan. 31, 1967).

[19] *Millarez, etc. vs. Amparo*, 97 Phil. 282 (June 30, 1955), emphasis furnished.

[20] 22 SCRA 857 (Feb. 28, 1968).

[21] 37 SCRA 381 (Jan. 30, 1971), cited in *Lopez vs. Comm. of Customs*, 37 SCRA 327 (Jan. 30, 1971).

[22] L-24237, Mar. 31, 1971.

[23] Citing "*Southwest Agricultural Marketing Corp. vs. Secretary of Finance*, G.R. No. L-24797, October 8, 1968, citing: *NAMARCO v. Macadaeg*, 98 Phil. 185, 190; *Sampaguita Shoe & Slipper Factory v. Comm. of Customs*, 102 Phil. 850; *Pepsi-Cola Bottling Co. v. Manahan*, L-12096, April 30, 1959, 105 Phil. 1299, 1300; *Acting Collector of Customs v. De la Rama Steamship*, L-20676, Feb. 26, 1965, (13 SCRA 298); *Auyong Hian v.*

Court of Tax Appeals, L-25181, Jan. 11, 1967, (19 SCRA 10); De Joya v. Lantin, L-24037, April 27, 1967, (19 SCRA 893); Acting Collector of Customs v. Caluag, L-23925, May 24, 1967, (20 SCRA 204); Romualdez v. Arca, L-20516, Nov. 15, 1967, (21 SCRA 856)."

[24] Rule 65, sec. 6; see 3 Moran's Rules 1970 Ed. 203.

[25] See also Namarco vs. Cloribel, 22 SCRA 1033 (Mar. 13, 1968).

[26] Petitioner's Ex-parte Motion to Resolve Motion for Issuance of Writ of Preliminary Injunction or for Issuance of Restraining Order, dated Dec. 28, 1970, Rollo, p. 136.

[27] 22 SCRA 1186 (Mar. 20, 1968).

[28] Citing "Suarez vs. Hon. Andres Reyes, et al., L-19828, Feb. 28, 1963; Commissioner of Immigration vs. Hon. Gaudencio Cloribel, et al., L-23838, Dec. 28, 1964; The Chief of the Philippine Constabulary vs. The Judge of the Court of First Instance of Rizal, L-22308, L-22343, March 31, 1964; Hon. Martiniano P. Vivo v. Hon. Gaudencio Cloribel, G. R. No. L-23239, Nov. 23, 1966; Vda. de Villa-nueva vs. Ortiz, No. L-11412, May 28, 1958; and Coloso vs. Board of Accountancy, L-5750, April 20, 1953 and the cases cited therein."

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