

SECOND DIVISION

[G.R. No. 156946, July 15, 2009]

SECRETARY OF FINANCE, PETITIONER, VS. ORO MAURA SHIPPING LINES, RESPONDENT.

D E C I S I O N

BRION, J.:

We resolve the petition^[1] filed by the Secretary of Finance (*petitioner*), assailing the Decision dated August 26, 2002,^[2] and Resolution dated January 20, 2003^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 64644. The CA affirmed the decision^[4] dated March 29, 2001 of the Court of Tax Appeals (CTA) holding that the assessment made by the Customs Collector of the Port of Manila on respondent Oro Maura Shipping Lines' (*respondent*) vessel M/V "HARUNA" had become final and conclusive upon all parties, and could no longer be subject to re-assessment.

FACTUAL ANTECEDENTS

On November 24, 1992, the Maritime Industry Authority (*MARINA*) authorized the importation of one (1) unit vessel M/V "HARUNA"; ex: Shin Shu Maru No. 8, under a Bareboat Charter, for a period of five (5) years from its actual delivery to the charterer. The original parties to the bareboat charter agreement were Haruna Maritime S.A., represented by Mr. Yoji Morinaga of Panama, and Mr. Guerrero G. Dajao, proprietor and manager of Glory Shipping Lines, the charterer.

On December 29, 1992, the Department of Finance (*DOF*), in its 1st Indorsement, allowed the temporary registration of the M/V "HARUNA" and its **tax and duty-free release** to Glory Shipping Lines, subject to the conditions imposed by MARINA. The Bureau of Customs (*BOC*) also required Glory Shipping Lines to post a bond in the amount equal to 150% of the duties, taxes and other charges due on the importation, conditioned on the re-exportation of the vessel upon termination of the charter period, but in no case to extend beyond the year 1999.

On March 16, 1993, **Glory Shipping Lines posted Ordinary Re-Export Bond No. C(9) 121818 for P1,952,000.00**, conditioned on the re-export of the vessel within a period of one (1) year from March 22, 1993, or, in case of default, to pay customs duty, tax and other charges on the importation of the vessel in the amount of P1,296,710.00.

On March 22, 1993, the M/V "HARUNA" arrived at the Port of Mactan. Its Import Entry No. 120-93 indicated the vessel's dutiable value to be P6,171,092.00 and its estimated customs duty to be P1,296,710.00.

On March 22, 1994, **Glory Shipping Lines' re-export bond expired**. Almost two (2) months after, or on May 10, 1994, **Glory Shipping Lines sent a Letter of**

Guarantee to the Collector guaranteeing to renew the Re-Export Bond on vessel M/V "HARUNA" on or before May 20, 1994; otherwise, it would pay the duties and taxes on said vessel. **Glory Shipping Lines never complied with its Letter of Guarantee; neither did it pay the duties and taxes and other charges due on the vessel despite repeated demands made by the Collector of the Port of Mactan.**

Since the re-export bond was not renewed, the Collector of the Port of Mactan assessed it customs duties and other charges amounting to P1,952,000.00; thereafter, it sent Glory Shipping Lines several demand letters dated April 22, 1996, June 21, 1996, and March 10, 1997, respectively. **Glory Shipping Lines failed to pay the assessed duties despite receipt of these demand letters.**

Unknown to the Collector of the Port of Mactan, Glory Shipping Lines had already offered to sell the vessel M/V "HARUNA" to the respondent in October 1994. In fact, the respondent already applied for an Authority to Import the vessel with MARINA on October 21, 1994, pegging the proposed acquisition cost of the vessel at P1,100,000.00. MARINA granted this request through a letter dated December 5, 1994, after finding that the proposed acquisition cost of the vessel reasonable, taking into consideration the vessel's depreciation due to wear and tear.

On December 2, 1994, Haruna Maritime S.A. and Glory Shipping Lines sold the M/V "HARUNA" to the respondent without informing or notifying the Collector of the Port of Mactan.

On December 13, 1994, Kariton and Company (*Kariton*), representing the respondent, inquired with the DOF if it could pay the duties and taxes due on the vessel, with the information that the vessel was acquired by Glory Shipping Lines through a bareboat charter and was previously authorized by the DOF to be released under a re-export bond. The DOF referred Kariton's letter to the Commissioner of Customs for appropriate action, per a 1st Indorsement dated December 13, 1994. In turn, the Commissioner of Customs, in a 2nd Indorsement dated December 14, 1994, referred the DOF's 1st Indorsement to the Collector of Customs of the Port of Manila.

On the basis of these indorsements and the MARINA appraisal, Kariton filed Import Entry No. 179260 at the Port of Manila on behalf of the respondent. The Collector of the Port of Manila accepted the declared value of the vessel at P1,100,000.00 and assessed duties and taxes amounting to P149,989.00, which the respondent duly paid on January 4, 1995, as evidenced by Bureau of Customs Official Receipt No. 50245666.

On November 5, 1997, after discovering that the vessel M/V "HARUNA" had been sold to the respondent, the Collector of the Port of Mactan sent the respondent a demand letter for the unpaid customs duties and charges of Glory Shipping Lines. When the respondent failed to pay, the Collector of the Port of Mactan instituted seizure proceedings against the vessel M/V "HARUNA" for violation of Section 2530, par. 1, subpar. (1) to (5) of the Tariff and Customs Code of the Philippines (*TCCP*).

In his September 1998 Decision,^[5] the Collector of the Port of Mactan ordered the forfeiture of the vessel in favor of the Government, after finding that both Glory

Shipping Lines and the respondent acted fraudulently in the transaction.

The Cebu District Collector, acting on the respondent's appeal, reversed the decision of the Collector of the Port of Mactan in his December 1, 1998 decision, concluding that while there appeared to be fraud in the sale of the vessel M/V "HARUNA" by Haruna Maritime S.A. and Glory Shipping Lines to the respondent, there was no proof that the respondent was a party to the fraud.^[6] Moreover, the Cebu District Collector gave weight to MARINA's appraisal of the dutiable value of the vessel. The decision also held that in light of this appraisal that the Collector of Custom of the Port of Manila used as basis for his assessment, the customs duty the Collector of the Port of Manila imposed was unquestionably proper.

On December 14, 1998, the Commissioner of Customs, in a 3rd Indorsement,^[7] affirmed the decision of the Cebu District Collector and recommended his approval to the petitioner.

In a 4th Indorsement dated January 8, 1999,^[8] the petitioner affirmed the Commissioner's recommendation, but ordered a re-assessment of the vessel based on the entered value, without allowance for depreciation. The respondent filed a motion for reconsideration, which the petitioner denied.

On May 15, 2000, the respondent filed a Petition for Review with the CTA,^[9] assailing the petitioner's January 8, 1999 decision. In a decision dated March 29, 2001, the CTA granted the respondent's petition and set aside the petitioner's 4th Indorsement, thus affirming the previous decision of the Commissioner of Customs.^[10]

Dissatisfied with this outcome, the petitioner sought its review through a petition filed with the CA; he claimed that the CTA erred when it held that the petitioner no longer had authority to order the re-assessment of the vessel. ^[11]

The CA affirmed the findings of the CTA in its decision dated August 26, 2002.^[12] The appellate court concluded that the assessment made by the Collector of the Port of Manila had already become final and conclusive on all parties, pursuant to Sections 1407 and 1603 of the TCCP; the respondent paid the assessed duties on January 4, 1995, while the Collector of the Port of Mactan demanded payment of additional duties and taxes only on November 5, 1997, or more than one year from the time the respondent paid. The CA also upheld the findings of the Cebu District Collector, of the Commissioner of Customs, and of the CTA that the fraud in this case could not be imputed to the respondent since it was not shown that the respondent knew about Glory Shipping Lines' infractions.

The CA subsequently denied petitioner's Motion for Reconsideration in its resolution of January 20, 2003.^[13] Hence, this petition.

THE PETITION

The petitioner submits three issues for our resolution:

I

WHETHER THE COURT OF APPEALS ERRED IN HOLDING THAT THE ASSESSMENT MADE BY THE MANILA CUSTOMS COLLECTOR ON THE SUBJECT VESSEL HAD BECOME FINAL AND CONCLUSIVE UPON ALL PARTIES.

II

WHETHER THE COURT OF APPEALS ERRED IN HOLDING THAT RESPONDENT WAS AN "INNOCENT PURCHASER."

III

WHETHER THE COURT OF APPEALS ERRED IN NOT HOLDING THAT A LIEN IN FAVOR OF THE GOVERNMENT AND AGAINST THE VESSEL EXISTS.

The petitioner mainly argues that the CA committed a reversible error when it held that the assessment of the Customs Collector of the Port of Manila had become final and conclusive on all parties pursuant to Sections 1407 and 1603 of the TCCP. According to the petitioner, these provisions cannot limit the authority of the Secretary of Finance or the Commissioner of Customs to assess or collect deficiency duties; in the exercise of their supervisory powers, the Commissioner and the Secretary may at any time direct the re-assessment of dutiable articles and order the collection of deficiency duties. Even assuming that Sections 1407 and 1603 of the TCCP apply to the present case, the petitioner posits that the one-year limitation^[14] set forth in these provisions presupposes that the return and all entries, as passed upon and approved by the Collector, reflect the accurate description and value of the imported article. Where the article was misdeclared or undervalued, the statute of limitations does not begin to run until a deficiency assessment has been issued and settled in full. Lastly, the petitioner claims that the respondent, being a direct and actual party to the importation, should have ensured that the imported article was properly declared and assessed the correct duties.

The respondent, on the other hand, claims that the appraisal of the Collector can only be altered or modified within a year from payment of duties, per Sections 1407 and 1603 of the TCCP; it is only when there is fraud or protest or when the import entry was merely tentative that settlement of duties will not attain finality. The petitioner's allegation that there was misdeclaration or undervaluation of the vessel is not supported by the evidence and is contrary to the findings of the District Collector of the Port of Cebu, which the petitioner himself affirmed in his 4th Indorsement dated January 8, 1999. Moreover, the records show that the value of the vessel was properly declared by the respondent at P1,100,000.00, pursuant to the appraisal of the MARINA.

The core legal issue for our resolution is whether the Secretary of Finance can order

a re-assessment of the vessel M/V "HARUNA."

THE COURT'S RULING

We find the petition meritorious and rule that the petitioner can order the re-assessment of the vessel M/V "HARUNA."

Procedural Issue

The Collector of the Port of Mactan found that the respondent defrauded the BOC of the proper customs duty, but the District Collector of Cebu held otherwise on appeal and absolved the respondent from any participation in the fraud committed by Glory Shipping Lines. These factual findings and conclusion were affirmed by the Commissioner of Customs, by the CTA and, ultimately, by the CA. Although in agreement with the conclusion, the petitioner, however, ordered a reassessment of the dutiable value of the vessel based on the original entered value, without allowance for depreciation.

Factual findings of the lower courts, when affirmed by the CA, are generally conclusive on the Court.^[15] For this reason, the Rules of Court provide that only questions of law may be raised in a petition for review on *certiorari*. We delve into factual issues and act on the lower courts' factual findings only in exceptional circumstances, such as when these findings contain palpable errors or are attended by arbitrariness.^[16]

After a review of the records of the present case, we find that the CTA and the CA overlooked and misinterpreted factual circumstances that, had they been brought to light and properly considered, would have changed the outcome of this case. **In particular, a closer scrutiny of the surrounding circumstances of the case and the respondent's actions reveal the existence of fraud that deprived the State of the customs duties properly due to it.**

A Critical Look at the Facts

Our examination of the facts tells us that there are four significant phases that should be considered in appreciating the present case.

The **first phase** is the original tax and duty-free entry of the MV Haruna when Glory Shipping Lines filed Import Entry No. 120-93 with the Collector of the Port of Mactan on March 22, 1993. The vessel then had a **declared dutiable value of P6,171,092.00 and the estimated customs duty was P1,296,710.00**. It was allowed conditional entry on the basis of a one-year re-export bond that lapsed and was not renewed. Despite a letter of guarantee subsequently issued by Glory Shipping Lines and repeated demand letters, no customs duties and charges were paid. The vessel remained in the Philippines.

The **second significant phase** occurred when Glory Shipping Lines offered to sell the vessel to the respondent in October 1994. At that point, the respondent applied for an Authority to Import the vessel, based on the proposed acquisition cost of P1,100,000.00. MARINA granted the request based on the proposed acquisition cost, taking depreciation into account.