

SECOND DIVISION

[G.R. No. 220502, February 12, 2018]

**STEEL CORPORATION OF THE PHILIPPINES, PETITIONER, V.
BUREAU OF CUSTOMS (BOC), BUREAU OF INTERNAL REVENUE
(BIR), DEPARTMENT OF FINANCE (DOF), OFFICE OF THE
PRESIDENT (OP), AND MUNICIPALITY OF BALAYAN, BATANGAS,
RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

This petition for review on *certiorari* under Rule 45 of the Rules of Court (*Rules*) seeks to reverse and set aside the November 19, 2014 Decision^[1] and September 15, 2015 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 127046 dismissing the appeal and affirming the Regional Trial Court (RTC) Order^[3] dated June 6, 2012, which stated:

WHEREFORE, premises considered, the Motion for Reconsideration filed by the Office of the Solicitor General regarding the Order dated January 12, 2012, the Omnibus Motion filed by the BIR and the Motion for Reconsideration filed by the Office of the Solicitor General with regard the Order dated March 5, 2012 are granted.

Accordingly, the Orders dated January 12, 2012 and March 5, 2012 are set aside.

The Motion for Execution filed by plaintiff is denied. Likewise, the writ of preliminary injunction issued on March 8, 2012 is hereby dissolved.

SO ORDERED.^[4]

The factual antecedents are as follows: On September 11, 2006, Equitable PCI Bank, Inc. initiated a petition for rehabilitation^[5] of Steel Corporation of the Philippines (*STEELCORP*), a domestic corporation organized and existing under Philippine laws, with principal place of business in *Barangay* Munting Tubig, Balayan, Batangas, and is engaged in the manufacture and distribution of cold-rolled, galvanized and pre-painted steel sheets and coils and fabrication of metal building products. The case was docketed as SP. Proc. No. 06-7993 and pending before the RTC of Batangas City. Finding the petition to be sufficient in form and substance, the court issued an Order^[6] on September 12, 2006, which directed, among others, the "[stay] [of] all claims against [*STEELCORP*], by all other corporations, persons or entities insofar as they may be affected by the present proceedings, until further notice from this Court, pursuant to Sec. 6, of Rule 4 of the Interim Rules of Procedure on Corporate Rehabilitation."

While the rehabilitation proceedings were pending, Republic Act (R.A.) No. 10142, or the *Financial Rehabilitation and Insolvency Act (FRIA) of 2010* was enacted.^[7] Section 19 of which mandates:

SEC. 19. *Waiver of Taxes and Fees Due to the National Government and to Local Government Units (LGUs).* - Upon issuance of the Commencement Order by the court, and until the approval of the Rehabilitation Plan or dismissal of the petition, whichever is earlier, the imposition of all taxes and fees, including penalties, interests and charges thereof, due to the national government or to LGUs shall be considered waived, in furtherance of the objectives of rehabilitation.

On December 16, 2010, the representatives of STEELCORP and the Municipality of Balayan, Batangas met to discuss the effects of the aforequoted provision. As agreed, the municipal government waived the taxes and other fees that may be due from STEELCORP starting the year 2011 and until a final rehabilitation plan is approved by the court.^[8]

In a letter^[9] dated October 1, 2010, and addressed to Bureau of Customs (BOC) Commissioner Angelito A. Alvarez, STEELCORP manifested its intent to avail of the privileges granted by Section 19 of R. A. No. 10142, stressing that the import duties and fees/VAT which the BOC wanted to impose on and collect cannot be made without violating the aforesaid provision. It appears that STEELCORP had imported raw materials for use in its manufacture of steel products, which the BOC assessed with taxes in the sum of P41,206,120.00.^[10]

In a Memorandum^[11] dated October 26, 2010, Commissioner Alvarez, upon the recommendation of the BOC Director of Legal Service and the concurrence of the Deputy Commissioner of the BOC Revenue Collection Management Group, approved the waiver of all taxes and fees which are due to STEELCORP. On March 8, 2011, he sent his 1st Indorsement to the Department of Finance (DOF), stating that "*the release of the [Memorandum dated October 26, 2010] had been put on hold pending clearance from the [DOF]. The attention of [DOF] is invited to the revenue loss that may be suffered by the Bureau in the implementation thereof as shown by the attached summary of importations for the past three years, and the fact that the said company is still continuously importing raw materials up to the present.*"^[12]

Subsequently, DOF Undersecretary Carlo A. Carag issued 2nd Indorsement^[13] dated May 26, 2011, which disapproved the recommendation of Commissioner Alvarez based on two grounds: (1) the Stay Order relied upon by STEELCORP is not the same as the Commencement Order required by law to consider the taxes and customs duties waived; and (2) assuming that the Stay Order is the same as the Commencement Order, the waiver contemplated under Section 19 does not include taxes and customs duties due on importations or shipments that were made by STEELCORP after the issuance of the Commencement Order.

STEELCORP elevated the matter to the Office of the President (OP), which docketed the case as O.P. No. 11-F-211.

Undersecretary Carag moved to dismiss the appeal for lack of jurisdiction. He noted that "*the assailed 2nd Indorsement dated May 26, 2011 issued by [the DOF] involves customs matters for automatic review from the decision of the*

*Commissioner of Customs, which was adverse to the Government, under Section 2315 of the Tariff and Customs Code of the Philippines (TCCP), as amended. Verily, it is the Court of Tax Appeals (CTA) which has the **exclusive appellate jurisdiction** to review the decision of the Secretary of Finance pursuant to **Section 7, Republic Act No. 1125**, as amended. "[14] In opposition,[15] STEELCORP contended that Section 2315 of the TCCP is irrelevant since said provision presupposes that there is already an assessment of duties by the Collector of Customs, which is not so in this case because the appeal "does not involve a decision of the Commissioner in a case involving the liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fine, forfeitures or other penalties imposed in relation thereto, or other matters arising under the Customs Laws or other law or part of law administered by the Bureau of Customs. " It was argued that the OP is vested with *quasi-judicial* functions under Administrative Order No. 18, Series of 1987.*

On September 14, 2011, STEELCORP filed a Complaint^[16] against the respondents for injunction with application for immediate issuance of temporary restraining order (TRO) and writ of preliminary injunction (WPI). It was docketed as Civil Case No. 5042 and raffled before RTC, Br. 10 of Balayan, Batangas. The action sought to restrain the respondents from assessing and continuing to assess STEELCORP of all taxes and fees due to the national government, including penalties, interests, and charges from the issuance of the Stay Order on September 12, 2006 and until final court approval of the rehabilitation plan.

In its Order^[17] dated September 15, 2011, the RTC issued a 72-hour TRO which was later extended until the application for preliminary injunction could be heard. On November 9, 2011, the RTC issued a *Status Quo* Order^[18] extending the effects of the TRO until such time that the respondents were given the opportunity to be heard and the issue on the issuance of preliminary injunction had been resolved. Meantime, on November 9, 2011, the OP deferred the resolution of O.P. No. 11-F-211 until final resolution of Civil Case No. 5042.^[19]

On January 12, 2012, the court ordered the Manila International Container Port (MICP) District Collector of Customs to immediately comply with the *Status Quo* Order by refraining the imposition of customs duties and taxes on the importation of raw materials of STEELCORP and to immediately release to the corporation the raw materials without payment of duties/taxes and without further delay.^[20] On the same day, the Office of the Solicitor General (OSG), acting for and in behalf of the BIR, BOC, DOF, and OP, filed a Motion to Dismiss (MTD).^[21] It was argued that the RTC has no jurisdiction to hear and determine the complaint because, under Section 602 (g) of Presidential Decree (P.D.) No. 1464 or the TCCP, the BOC acquires exclusive jurisdiction over imported goods for purposes of enforcement of the customs laws from the moment the goods are actually in its possession or control; thus, the *Status Quo* Order is null and void. Also, under Section 2315 of the TCCP, the 2nd Indorsement dated May 26, 2011 should be appealed to the CTA; hence, the appeal to the OP did not toll the running of the 30-day reglementary period provided under Section 11 of R.A. No. 9282. Reiterating the position of the BOC, the OSG further contended that: (1) the Stay Order is not the same as the Commencement Order required by law to consider the taxes and customs duties waived; and (2) assuming that both orders are the same, the waiver contemplated under Section 19

does not include the payment of taxes and customs duties on STEELCORP's future importations or incoming shipments. STEELCORP opposed the motion.^[22]

On March 5, 2012, the RTC denied the MTD and directed the issuance of a WPI *"enjoining the defendants, their agents, representatives and assigns acting in their behalf, from assessing, imposing, or collecting all taxes, customs duties and fees due from the national or local government until after the final disposition of this case."*^[23] The writ was issued on March 8, 2012.^[24]

The opposing parties filed various motions before the RTC. In its Order^[25] dated June 6, 2012, the issues raised were simultaneously resolved as follows:

1. Denial of STEELCORP's motion to strike Answer filed by the BIR;

The Memorandum of Agreement (MOA) dated March 17, 2012 between the OSG and the BIR, is an exception to Memorandum Circular No. 152 issued on May 7, 1992. The MOA authorized the BIR-handling lawyer to be the lead lawyer in cases of first instance filed before the CTA Divisions, Metropolitan Trial Courts, Municipal Trial Courts, Municipal Circuit Trial Courts, Regional Trial Courts, Department of Justice, and other administrative agencies. Hence, the BIR lawyer has the authority to appear for and its behalf and, consequently, to file an Answer in this case.

2. Denial of STEELCORP's urgent *ex-parte* motion for execution of the January 12, 2012 Order;

The motion was premature in view of the necessity to resolve first the OSG's motion for reconsideration of the January 12, 2012 Order.

3. Grant of the OSG's motion for reconsideration of the January 12, 2012 Order; the BIR's omnibus motion for reconsideration and to dissolve the WPI; and the OSG's motion for reconsideration of the March 5, 2012 Order;

The BIR and the BOC are the agencies tasked to collect taxes and customs duties, respectively. Inasmuch as what are to be collected, how much, when, and from whom as provided by law are to be ascertained and discharged by said agencies, the question of who are to be exempted shall also be determined by them. The issue of whether STEELCORP may avail of the benefits of R.A. No. 10142 should have been raised before the CTA after the BOC denied the claim.

4. Denial of STEELCORP's motion to strike the BIR's omnibus motion and the OSG's motion for reconsideration of the March 5, 2012 Order;

The BIR's omnibus motion and the OSG's motion for reconsideration contained proper notices of hearing and the BIR lawyers are authorized to appear for and its behalf.

Aggrieved, STEELCORP moved for reconsideration, which was denied on September 17, 2012.^[26] Consequently, it filed before the CA an appeal under Rule 41 of the *Rules* to challenge the RTC Orders dated June 6, 2012 and September 17, 2012. Two issues were raised, to wit:

I. Whether or not the trial court erred when it allowed and gave due course to the separate motions of the BOC and the BIR despite their procedural and jurisdictional infirmities; and

II. Whether or not the trial court erred in lifting the preliminary injunction and ordering the dismissal of the complaint.^[27]

Anent the first issue, STEELCORP pointed out that the notice of hearing on the OSG's motion for reconsideration indicated that it was submitted for the consideration and approval of the RTC on April 6, 2012, which was a Good Friday. As to the BIR's omnibus motion, the notice of hearing was dated March 28, 2012 but the motion was submitted for hearing on April 12, 2012; thus, beyond the ten-day period required under Section 5, Rule 15 of the *Rules*. It also fell on a Monday, violating Section 7, Rule 15 thereof.

With respect to the second issue, STEELCORP argued that the OP recognized that the issue involved in this case - the interpretation of Sections 19 and 146 of R.A. No. 10142 - is a legal question. Moreover, the parties are estopped by their agreement to refer the matter to the trial court, which, being one of general jurisdiction, had sufficient authority to assume over the case.

On November 19, 2014, the CA dismissed the appeal. It was opined that there was no infirmity in the notices of hearing of the motions filed by the OSG and the BIR because STEELCORP was given ample time to oppose them and prepare appropriate pleadings to refute the same. On the second issue, the CA reminded that it is the law that confers jurisdiction and not experience, practice or tradition, or agreement of the parties. It was noted that the complaint for injunction sought to enjoin the BOC and the BIR from collecting customs duties and taxes on the importations made by STEELCORP. Under Section 7 (4) of R.A. No. 1125, as amended by R.A. No. 9282, the BOC's denial of the request for exemption should have been appealed to the CTA, which has the power to issue an injunction pursuant to Section 11, Paragraph 4 thereof.

A motion for reconsideration was filed, but it was denied on September 15, 2015; hence, this petition.

STEELCORP maintains that the CA erred when it sustained the trial court's act of giving due course to the OSG and the BIR motions that were set for hearing on days that were declared as national holiday and/or beyond the period prescribed by the *Rules*. Likewise, it insists that the present controversy does not assail its liability to pay customs duties, taxes or other charges on its importation of raw materials. Rather, the issue is whether a corporation placed under corporate rehabilitation can avail the benefits of Section 19 of R.A. No. 10142, which issue is cognizable by the RTC and whose decision may be appealed to the CA or the Supreme Court and not to any other court like the CTA. STEELCORP stresses that it is not raising any issue as to the amount and collectibility of the taxes and duties on its importation but is only seeking compliance by the respondents of their obligations under Section 19.

At the outset, it must be said that this petition was already denied on November 11, 2015.^[28] However, it was reinstated on June 15, 2016 when STEELCORP's motion for reconsideration was granted.^[29]

Once again, We deny.