

FIRST DIVISION

[G.R. No. 160206, July 15, 2015]

M/V "DON MARTIN" VOY 047 AND ITS CARGOES OF 6,500 SACKS OF IMPORTED RICE, PALACIO SHIPPING, INC., AND LEOPOLDO "JUNIOR" PAMULAKLAKIN, PETITIONERS, VS. HON. SECRETARY OF FINANCE, BUREAU OF CUSTOMS, AND THE DISTRICT COLLECTOR OF CAGAYAN DE ORO CITY, RESPONDENTS.

DECISION

BERSAMIN, J.:

This case involves the seizure and forfeiture of the rice cargo and its carrying vessel on the ground that the rice cargo had been smuggled.

The Case

Under review is the decision promulgated on July 29, 2003,^[1] and the resolution promulgated on September 25, 2003,^[2] both in CA-G.R. SP No. 66725, whereby the Court of Appeals (CA) reversed and set aside the ruling rendered on May 22, 2001^[3] and the resolution issued on August 30, 2001^[4] by the Court of Tax Appeals (CTA) in C.T.A. Case No. 5890 respectively affirming the forfeiture by the customs authorities of the vessel M/V Don Martin Voy 047 (M/V Don Martin) and its cargo of 6,500 sacks of rice, and denying the petitioners' *Motion for Reconsideration*.

Antecedents

Petitioner Palacio Shipping, Inc. (Palacio) was the owner of the M/V Don Martin, a vessel of Philippine registry engaged in coastwise trade.^[5] On January 25, 1999, the M/V Don Martin docked at the port of Cagayan de Oro City with its cargo of 6,500 sacks of rice consigned to petitioner Leopoldo "Junior" Pamulaklakin (Pamulaklakin).^[6] According to the petitioners, the vessel left Calbayog City on January 24, 1999 loaded with the 6,500 sacks of rice purchased in Sablayan, Occidental Mindoro.^[7]

Based on an intelligence report to the effect that the cargo of rice being unloaded from the M/V Don Martin had been smuggled, the Economic Intelligence and Investigation Bureau (EIIB), with the assistance of the Bureau of Customs (BOC), apprehended and seized the vessel and its entire rice cargo on January 26, 1999.^[8] The District Collector of Customs in Cagayan de Oro City then issued a warrant of seizure and detention pursuant to Section 2301^[9] of the Tariff and Customs Code of the Philippines (TCCP).

At the hearing on the seizure, the petitioners represented that the vessel was a common carrier; and that the 6,500 sacks of rice had been locally produced and

acquired.^[10] In substantiation, they submitted several documents, as follows:

1. Certificate of Ownership - to prove that Palacio Shipping, Inc. is the owner of M/V "Don Martin",
2. Coastwise License - to prove that Palacio Shipping, Inc. is duly licensed to engage in coastwise Trading and as such, is a common carrier and is financially capable to engage in shipping business;
3. Mintu Rice Mill Official Receipt No. 2753 dated January 18, 1999 - to prove that the origin of the rice is Sablayan, Occidental Mindoro and also to show that the rice is of regular mill and not smuggled;
4. NFA, Sablayan, Occidental Mindoro Clearance - to show that the bags of rice purchased under Exhibit "3" has been cleared for shipment by the National Food Authority of Sablayan, Occidental Mindoro;
5. Old NFA License of Godofredo Mintu

5-A - Renewal of the NFA License of Godofredo Mintu expiring May 31, 1999 - to show that the purchased rice came from a duly licensed Grains Trader;
6. NFA License of Florentino J. Palacio, owner of the EMP Commercial, the shipper - to prove that the shipper is a duly Licensed NFA wholesaler;

6-1 Renewal Receipt for NFA License for Fiscal Year 1998-1999;
7. NFA Clearance of Catbalogan, Western Samar — to prove that the cargo of M/V "DON MARTIN" was cleared for Cagayan de Oro City;

7-1 PPASeal

7-2 Coast Guard Seal

7-3 Page 2 of NFA Clearance
8. Bill of Lading - to prove that the cargo was duly covered with a Bill of Lading, a requirement in coastwise shipping;
9. Coasting Manifest - to prove that the cargo of rice was duly reflected in its manifest - also a requirement for coastwise shipping;
10. Birth Certificate and photo of Leopoldo "Junior" Pamulaklakin

10-A Residence Certificate of Leopoldo "Junior" Pamulaklakin - to prove that the consignee is a living person and not fictitious person.

10-B Picture of Leopoldo "Junior" Pamulaklakin - to prove that the consignee is a living person and not a fictitious person.^[11]

On March 24, 1999, District Collector of Customs Marietta Z. Pacasum rendered her ruling whereby she concluded that in the absence of a showing of lawful entry into the country the 6,500 sacks of rice were of foreign origin and thus subject to seizure and forfeiture for violation of Section 2530 (f) and (1) No. 1 of the TCCP, as amended; that the presentation of the supporting documents by the claimants was a strategy to conceal the true nature and origin of the rice cargo in order to mislead the Customs authorities into believing that the rice was locally produced and locally purchased; and that considering that the evidence to support the seizure and forfeiture of the carrying vessel was insufficient, the release of the vessel was to be ordered. Pertinent portions of the ruling follow:

The results of the Laboratory Analysis of samples of the subject rice by the NFA and the Philippine Rice Institute reveal that the grain length is unusually long with 7.2 mm. for both Orion and Platinum 2000 rice samples as compared to the grain length of most Philippine Varieties which ranges from 5.8 to 6.9 mm. only. It was also found out that rice with grain length of more than 7.0 mm. are more common in the countries of Brazil, Bolivia, Guatemala and Thailand, (Exhibit "J-3" and "K-I"), although the said imported variety could be purchased locally through the NFA.

Furthermore, it also appears that some white sacks/containers were marked with Premium Rice whereas per Philippine Grains Standardization, yellow color is for premium while white color is for ordinary rice. (Exhibit I).

On the basis of the above findings, it can be safely concluded that the 6,500 sacks of rice subject of this proceedings are of foreign origin and therefore subject to seizure and forfeiture for violation of Section 2530 (f) and (1) no. 1 of the TCCP, as amended, in the absence of showing of its lawful entry into the country. The presentation of the supporting documents by respondents/claimants was a strategy to conceal the true nature and origin of the cargoes and to mislead the Customs Authorities into believing that subject rice are locally produced and locally purchased. Hence, said documents have no probative value whatsoever insofar as the subject cargoes are concerned.

Section 2530 provides: Property Subject to Forfeiture Under Tariff and Customs Law. x x x

(L) Any article sought to be imported or exported:

1. Without going through a Customhouse, whether the act was consummated, frustrated or attempted.

Since the subject rice was established to be of the imported variety and considering that the said cargoes are not covered by proper import documents, the importation of the same fall squarely on the above

quoted provision of the TCCP.

With respect to the carrying vessel, **MV "DON MARTIN"**, which is a common carrier, no evidence sufficient enough to warrant its forfeiture in favor of the government was presented to satisfy the provision of Section 2530 paragraph a and k of the TCCP. On the other hand, respondent/claimant was able to show proof to defeat a forfeiture decree, by presentation of pertinent documents relative to the following requirements, viz:

1. That the owner is engaged in the business for which the conveyance is generally used;
2. That the owner is financially in a position to own such conveyance and
3. That the vessel has not been used for smuggling at least twice before. (Exhibit 1 & 2) in compliance with the provision of Section 2531 of the TCCP.

WHEREFORE, in light of the foregoing and by virtue of the authority vested in the undersigned under Section 2312 of the Tariff and Customs Code of the Philippines, as amended, it is hereby ordered and decreed that the 6,500 sacks of imported rice subject of this seizure proceedings be, as they are hereby decreed forfeited in favor of the Government of the Republic of the Philippines to be disposed of in the manner provided by law. It is further ordered and decreed that the carrying vessel **MV "DON MARTIN"** be released to the owner/claimant and be cleared for its next destination, for insufficiency of evidence.

x x x x

SO ORDERED.^[12]

Pamulaklakin appealed, but BOC Deputy Commissioner Emma M. Rosqueta, in her decision dated April 19, 1999, upheld District Collector Pacasum, holding thusly:

This Office is convinced that the 6,500 sacks of rice subject matter of this case are of foreign growth and origin. No evidence of lawful entry of the said rice into the country as well as payment of duties and taxes has been presented, hence, the said cargo is liable to forfeiture under Section 2530 (a), (f) and (I) - 1 of the Tariff and Customs Code.

WHEREFORE, the decision of the District Collector of Customs, Port of Cagayan de Oro, ordering the forfeiture of the 6,500 sacks of rice discharge (sic)/ seized from the M/V "DON MARTIN" is AFFIRMED. It is further ordered and decreed that the said rice be immediately disposed of in accordance with law.

x x x x

SO ORDERED.^[13]

Meanwhile, the order to release the vessel, being adverse to the interest of the Government, was elevated to the Secretary of Finance for automatic review pursuant to Section 2313 of the TCCP. In his 3rd Indorsement dated May 11, 1999, then Secretary of Finance Edgardo B. Espiritu reversed the order for the release of the vessel based on the finding that "the operator of the vessel is the shipper of the smuggled goods."^[14]

Consequently, on June 21, 1999, the petitioners brought a petition for review in the CTA (CTA Case No. 5890) to seek the nullification of the May 11, 1999 3rd Indorsement of the Secretary of Finance,^[15] and to obtain the release of the rice shipment and the vessel.^[16]

Pending the resolution of the appeal, the CTA issued its resolution dated November 8, 1999 ordering the release of the vessel and the rice cargo upon the petitioners' filing of GSIS Surety Bond 032899 and GSIS Surety Bond 032900 in the respective amounts of P5,550,000.00 and P6,682,000.00 in favor of the BOC.^[17]

On May 22, 2001, the CTA rendered its decision in favor of the petitioners, disposing thusly:

IN LIGHT OF ALL THE FOREGOING, the decisions of the Respondents are hereby **REVERSED** and **SET ASIDE**. Accordingly, the GSIS Surety Bonds in the total amount of P12,232,000.00, which were earlier posted by Petitioners for the release of the subject cargo of rice and its carrying vessel are hereby **ORDERED RELEASED** for reasons aforestated. No costs.

SO ORDERED.^[18]

The respondents filed their *Motion for Partial Reconsideration*,^[19] citing the sole ground that the April 19, 1999 decision by BOC Deputy Commissioner Rosqueta upholding the forfeiture of the 6,500 sacks of rice had already attained finality; and arguing that the CTA lacked the jurisdiction to resolve the issue on the forfeiture of the 6,500 sacks of rice because the appeal to the CTA had been limited to the forfeiture of the vessel.

After the CTA denied the *Motion for Partial Reconsideration on August 30, 2001*,^[20] the respondents appealed to the CA, reiterating that the CTA did not acquire jurisdiction over the issue of the forfeiture of the 6,500 sacks of rice.^[21]

The petitioners countered that the April 19, 1999 decision of BOC Deputy Commissioner Rosqueta did not yet attain finality because they had been belatedly furnished a copy of it; and that the respondents raised the issue of jurisdiction only after receiving the adverse decision of the CTA.