

THIRD DIVISION

[G.R. No. 209324, December 09, 2015]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE BUREAU
OF CUSTOMS, PETITIONER, VS. PILIPINAS SHELL PETROLEUM
CORPORATION, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Assailed in this petition for review under Rule 45 are the Decision^[1] dated February 13, 2013 and Resolution^[2] dated June 3, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 95436 which affirmed the Orders^[3] dated April 28, 2010 and July 2, 2010 of the Regional Trial Court (RTC) of Manila, Branch 49 in Civil Case No. 02-103191.

Factual Antecedents

Pilipinas Shell Petroleum Corporation (PSPC), a domestic corporation registered with the Board of Investments (BOI), is engaged in the importation, refining and sale of petroleum products in the country. For its importations, PSPC was assessed and required to pay customs duties and internal revenue taxes.

Under Deed of Assignment^[4] dated May 7, 1997, Filipino Way Industries (FWI) assigned the following Tax Credit Certificates^[5] (TCCs) to PSPC:

TCC#	P 2,542,918.00
006889	
TCC #	2,573,422.00
006977	
TCC#	2,559,493.00
006978	
TCC #	<u>2,413,079.00</u>
006979	
TOTAL	<u>P10,088,912.00</u> ^[6]

On the belief that the TCCs were actually good and valid, the Bureau of Customs (BOC) accepted and allowed PSPC to use the above TCCs to pay the customs duties and taxes due on its oil importations.

The One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center^[7] ("Center") undertakes the processing of TCCs and approval of their transfers. It is composed of a representative from the Department of Finance (DOF) as its chairperson; and the members thereof are representatives of the BOI, BOC and Bureau of Internal Revenue (BIR).

On November 3, 1999 the Center, through then Finance Secretary Edgardo B. Espiritu, informed BIR Commissioner Beethoven L. Rualo that pursuant to EXCOM Resolution No. 03-05-99, it has cancelled various Tax Debit Memos (TDMs) issued to PSPC and Petron Corporation against their TCCs which were found to have been fraudulently issued and transferred. These include the subject TCCs sold by FWI to PSPC. The Center thus advised that it will be demanding from the said oil companies payment corresponding to the amount of the TCCs as evidenced by the TDMs, and accordingly directed the BIR to collect the amount utilized on the TCCs, including the related penalties, surcharges and interests.^[8] A similar letter was sent to Customs Commissioner Nelson Tan regarding the cancellation of TDMs issued to PSPC based on the Center's finding that the TCCs utilized by PSPC have been fraudulently issued and transferred.^[9]

On April 3, 2002, the Republic of the Philippines represented by the BOC filed the present collection suit in the RTC (Civil Case No. 02-103191) for the payment of P10,088,912.00 still owed by PSPC after the invalidation of the subject TCCs.

Meanwhile, PSPC filed with the Court of Tax Appeals (CTA Case No. 6484) a petition for review questioning the factual and legal bases of BOC's collection efforts.

Subsequently, PSPC moved to dismiss Civil Case No. 02-103191 on the ground that the RTC had no jurisdiction over the subject matter and that the complaint for collection was prematurely filed in view of its pending petition for review in the CTA. The RTC denied the motion to dismiss and PSPC eventually filed its answer questioning the RTC's jurisdiction. When the RTC issued a notice of pre-trial, PSPC moved for reconsideration of the order denying its motion to dismiss. The RTC denied the motion for reconsideration, prompting PSPC to elevate the matter to the CA via a petition for certiorari (CA-G.R. SP No. 71756). On October 23, 2003, the CA rendered decision denying PSPC's petition. With the denial of its motion for reconsideration, PSPC sought recourse from this Court in a petition for review on certiorari (G.R. No. 161953). In a Decision^[10] dated March 6, 2008, this Court denied PSPC's petition, viz.:

Inasmuch as the present case did not involve a decision of the Commissioner of Customs in any of the instances enumerated in Section 7(2) of RA 1125, **the CTA had no jurisdiction over the subject matter. It was the RTC that had jurisdiction under Section 19(6) of the Judiciary Reorganization Act of 1980, as amended:**

x x x x

In view of the foregoing, the RFC should forthwith proceed with Civil Case No. 02-103191 and determine the extent of petitioner's liability.

We are not unmindful of petitioner's pending petition for review in the CTA where it is questioning the validity of the cancellation of the TCCs. However, respondent cannot and should not await the resolution of that case before it collects petitioner's outstanding customs duties and taxes for such delay will unduly restrain the performance of its functions. Moreover, if the ultimate outcome of the CTA case turns out to be favorable to petitioner, the law affords it the adequate remedy of seeking

a refund.

WHEREFORE, this petition is hereby *DENIED*. The Regional Trial Court of Manila, Branch 19 is ordered to proceed expeditiously with the pre-trial conference and trial of Civil Case No. 02-103191.

Costs against petitioner.

SO ORDERED.^[11] (Emphasis supplied)

As to CTA Case No. 6484, the CTA denied BOC's motion to dismiss on the ground of prescription. When the CTA denied the BOC's motion for reconsideration, the BOC appealed to the CA, which reversed the questioned CTA resolutions. PSPC again sought recourse from this Court *via* a petition for review on certiorari (G.R. No. 176380). By Decision^[12] dated June 18, 2009, we denied the petition and held that the present case does not involve a tax protest case within the jurisdiction of the CTA to resolve. Citing our previous ruling in *Pilipinas Shell Petroleum Corporation v. Republic*^[13] we ruled that the appropriate forum to resolve the issues raised by PSPC before the CTA, which were all related to the fact and efficacy of the payments made, should be the collection case before the RTC where PSPC can put up the fact of its payment as a defense.

With the resumption of proceedings in the RTC, the BOC filed an Amended Complaint, to which PSPC filed a Second Amended Answer. Pre-trial was terminated and the RTC summarized the issues in its Pre-Trial Order^[14] dated September 9, 2009, to wit:

The following issues raised by the plaintiffs:

- a. Whether or not plaintiff Republic has cause of action against defendants;
- b. Whether or not defendant Pilipinas Shell is [a] transferee in good faith [of] Tax Credit Certificates;
- c. Whether or not defendants are liable to pay the Republic the amount of Php10,088,912.00 represents unpaid taxes;
- d. Whether or not the Tax Credit Certificate was spurious and fraudulent.

The following issues raised by the defendant Pilipinas Shell:

- a. Whether the defendants PSPC is liable for the amount of Php10,088,912.00 in customs duties and taxes covered by cancelled subject Tax Credit Certificates, However, there are sub-issues. These are include[d] in our pre-trial brief;
- b. Whether or not plaintiff is liable for moral and exemplary and Attorney's fees; and

c. Whether or not defendant Filipino Way is liable to defendant PSPC in case of successful collection of customs taxes against PSPC.^[15]

On November 16, 2009, PSPC filed a motion for summary judgment arguing that there is no basis for the Republic's claims considering that the subject TCCs were already fully utilized for the payment of PSPC's customs duties and taxes, and that EXCOM Resolution No. 03-05-99, the basis of the cancellation of the TCCs, was declared void and invalid in *Pilipinas Shell Petroleum Corporation v. CIR*,^[16] where this Court likewise ruled that the subject TCCs cannot be cancelled on the basis of post-audit since a post-audit is not allowed and not a suspensive condition. PSPC further contended that the Republic's cause of action had already prescribed when it attempted to collect PSPC's customs duties and taxes only four years later, beyond the one-year prescriptive period to file a collection case. Lastly, PSPC asserted that even assuming the TCCs were fraudulently obtained by FWI, an innocent purchaser for value like PSPC cannot be prejudiced as held in the aforementioned case.

In its Comment/Opposition, BOC argued that rendition of summary judgment is inappropriate in this case in view of disputed facts that necessitate a full-blown trial where both parties can present evidence on their respective claims. BOC pointed out that PSPC cannot rely on the Deed of Assignment as proof that it had no participation in the issuance of the TCCs. PSPC should prove at the trial that there was a valid transfer in good faith and for value of the subject TCCs. As to the rulings in the case of *Pilipinas Shell Petroleum Corporation v. CIR*,^[17] these are inapplicable here because first, what is involved therein are taxes owed to the BIR and there was no finding of fraud against PSPC whereas in the present case the BOC can readily prove during trial that PSPC committed fraud.

On February 22, 2010, the RTC denied the motion for summary judgment in view of factual disputes which can only be resolved by trial on the merits. Specifically, it stated that presentation of evidence is necessary to determine if PSPC is a mere transferee in good faith and for value of the subject TCCs and that there was a valid transfer/assignment between PSPC and FWI.^[18]

However, on motion for reconsideration by PSPC, the RTC reversed its earlier ruling and granted the motion for summary judgment under its Order^[19] dated April 28, 2010. The RTC cited *Pilipinas Shell Corporation v. Republic*^[20] which supposedly settled factual and legal issues raised by BOC in its pleadings and arguments, specifically PSPC's not having committed fraud. As there are no more disputed matters, the RTC held that there is no more need for a trial to prove that the subject TCCs have been fully utilized by PSPC and that they were cancelled due to an invalid post-audit under the authority of EXCOM Resolution No. 03-05-99.

The RTC thus decreed:

WHEREFORE, premises considered, the Order dated February 22, 2010 is hereby REVERSED and SET ASIDE. The instant case against defendant PSPC is DISMISSED. However, the case against defendant Filipino Way still SUBSISTS.

Let the trial of this case continue against the other Defendant namely, Filipino Way Industries, as previously scheduled on May 19, 2010 at 1:00

o'clock in the afternoon.

SO ORDERED.^[21]

With the denial of its motion for reconsideration, BOC appealed to the CA. By Decision dated February 13, 2013, the CA denied the appeal and affirmed the questioned orders of the RTC. BOC's motion for reconsideration was likewise denied by the CA.

According to the CA, BOC adopted a wrong mode of appeal because whether the RTC erred in rendering summary judgment is purely a legal issue, jurisdiction over which is vested only in this Court. Even assuming that the CA can entertain BOC's appeal, the CA said it found no genuine issues raised by the parties' pleadings and arguments that necessitate a full-blown trial. The CA further held that the rule on *stare decisis* applies in the present case considering that the legal and factual issues have been previously discussed and resolved by this Court in *Pilipinas Shell Petroleum Corporation v. CIR*.^[22]

Issues

The following issues clearly emerge from the present controversy: (1) Does the Republic's (petitioner) appeal involve purely questions of law and hence a wrong remedy from the assailed RTC orders?; (2) Whether or not summary judgment is proper; (3) Does the ruling in *Pilipinas Shell Petroleum Corporation v. CIR*^[23] apply to this case under the doctrine of *stare decisis*?; and (4) Whether or not petitioner's claim is barred by prescription.

Petitioner's Arguments

Citing the cases of *Nocom v. Camerino*^[24] and *Heirs of Baldomero Roxas v. Garcia*^[25] petitioner argues that since a summary judgment has the effect of adjudication on the merits, appeal under Rule 41 of the Rules of Court is the proper remedy.

As to the propriety of summary judgment rendered by the RTC, petitioner underscores that the collection case it filed against PSPC is founded on the fact that the latter utilized the fraudulently-secured TCCs for payment of customs duties and taxes that arose from its various oil importations, and their cancellation did not extinguish its liability to the government. The matter of whether or not PSPC is a transferee in good faith and for value is a genuine issue to be resolved, and must be ventilated in a full trial. The issue of whether or not PSPC is guilty of fraud likewise calls for the presentation of evidence at the trial.

Petitioner mentions other factual inquiries which it said arose in this case, such as the manner by which FWI acquired the subject TCCs; the legality of their transfer to PSPC; the results of the post-audit conducted on the subject TCCs; whether PSPC claimed a return of the consideration from FWI upon the cancellation of the TCCs; the veracity of the letter from Equitable Banking Corporation stating that the credit memos, supposedly used by FWI in securing the TCCs, do not conform to the bank's records; and what are the company papers and export documents submitted for the claim of tax credits.