

FIRST DIVISION

[G.R. No. 158150, September 10, 2014]

AGRIEX CO., LTD., PETITIONER, VS. HON. TITUS B. VILLANUEVA, COMMISSIONER, BUREAU OF CUSTOMS (NOW REPLACED BY HON. ANTONIO M. BERNARDO), AND HON. BILLY C. BIBIT, COLLECTOR OF CUSTOMS, PORT OF SUBIC (NOW REPLACED BY HON. EMELITO VILLARUZ), RESPONDENTS.

DECISION

BERSAMIN, J.:

The Court affirms the exclusive jurisdiction of the Bureau of Customs over seizure cases within the Subic Freeport Zone.

The Case

This appeal by petition for review on *certiorari* is brought by Agriex Co., Ltd. to reverse the decision promulgated on November 18, 2002 in CA-G.R. CV No. 67593, [1] whereby the Court of Appeals (CA) dismissed its petition for *certiorari* and prohibition to nullify and set aside the Notice of Sale dated October 18, 2001 issued by respondent Billy C. Bibit as the Collector of Customs in the Port of Subic.

Antecedents

On July 19, 2001, the petitioner, a foreign corporation whose principal office was in Bangkok, Thailand, entered into a contract of sale with PT. Gloria Mitra Niagatama International of Surabaya, Indonesia (PT. Gloria Mitra) for 180,000 bags (or 9,000 metric tons) of Thai white rice.[2] Later on, it entered into another contract of sale with R&C Agro Trade of Cebu City (R&C Agro Trade) for 20,000 bags of Thai white rice. On July 27, 2001, it chartered the vessel MV Hung Yen to transport the 200,000 bags of Thai white rice to the Subic Free Port for transshipment to their designated consignees in the Fiji Islands and Indonesia (for the 180,000 bags), and in Cebu City (for the 20,000 bags).[3] The MV Hung Yen left Bangkok, Thailand on August 15, 2001 and arrived at the Subic Free Port on August 20, 2001 with the inward foreign manifest indicating the final destinations of the shipment. However, the Sea Port Department of the Subic Bay Metropolitan Authority (SBMA) allowed the vessel to berth only 22 days later, or on September 11, 2001. SBMA advised the vessel agent to secure from the National Food Authority (NFA) an amendment of the import permit issued in favor of R&C Agro Trade to change the discharging port from the Port of Cebu to the Port of Subic.

Due to the delay in the berthing and unloading of the cargo from the vessel, the petitioner, through its agent in Subic, applied for a vessel exit clearance to allow the MV Hung Yen to sail for the Labuan Free Port in Malaysia. On August 24, 2001, the Bureau of Customs issued a Clearance of Vessel to a Foreign Port, granting the

petitioner's request to allow the MV Hung Yen and cargo to exit for Malaysia.^[4] Despite the issuance of the clearance, the MV Hung Yen did not set sail for the Labuan Free Port on August 26, 2001.

On September 10, 2001, the petitioner requested permission from the Bureau of Customs to unload the entire shipment of 200,000 bags of Thai white rice because the MV Hung Yen must return to Vietnam.^[5] Upon the recommendation of Atty. James F. Enriquez and Atty. Clemente P. Herald, as indicated in their After Mission Report dated September 4, 2001,^[6] respondent Commissioner Titus B. Villanueva issued his 1st Indorsement on September 11, 2001 directing respondent Collector of Customs Billy C. Bibit to issue a Warrant of Seizure and Detention (WSD) against the 20,000 bags of Thai white rice consigned to R&C Agro Trade.^[7]

Accordingly, Collector Bibit issued WSD No. 2001-13 dated September 12, 2001 against the 20,000 bags of Thai white rice consigned to R&C Agro Trade notwithstanding that no bag of rice had yet been unloaded from the vessel.^[8]

After the unloading, transfer and storage of the rice shipment at SBMA's warehouse, Collector Bibit issued amended WSDs on September 27, 2001 to cover the MV Hung Yen and the remaining 180,000 bags of Thai white rice intended for transshipment.^[9]

On October 4, 2001, the petitioner filed with the Bureau of Customs in the Port of Subic an Urgent Motion to Quash Warrant of Seizure, inclusive of WSD No. 2001-13 (20,000 bags consigned to R&C Agro Trade), WSD No. 2001-13A (MV Hung Yen) and WSD No. 2001-13B (180,000 bags for transshipment).^[10]

On October 26, 2001, Collector Bibit quashed WSD No. 2001-13A over the MV Hung Yen on the ground that the vessel was not chartered or leased.^[11]

Pending hearing of the seizure proceedings vis-à-vis the rice shipments, Collector Bibit issued a Notice of Sale on October 18, 2001, setting therein the auction sale of the 200,000 bags of Thai white rice on November 22, 2001 and November 23, 2001.^[12]

The petitioner filed a Manifestation and Urgent Motion for Reconsideration on October 19, 2001, but Collector Bibit did not act on the motion.^[13]

Consequently, the petitioner instituted the petition for *certiorari* and prohibition in the CA on November 12, 2001 (with prayer for the issuance of a temporary restraining order and/or writ of injunction), alleging grave abuse of discretion on the part of the respondents for issuing the October 18, 2001 Notice of Sale notwithstanding that they had no jurisdiction over the 180,000 bags of Thai white rice intended for transshipment to other countries.^[14]

Accordingly, Commissioner Villanueva issued his memorandum dated November 19, 2001 directing Collector Bibit not to proceed with the scheduled auction of the 180,000 bags of Thai white rice until further orders from his office.^[15]

On November 22, 2001, the CA issued a temporary restraining order enjoining the

respondents to desist from holding the scheduled public auction.^[16]

The respondents did not file their Comment vis-à-vis the petition for *certiorari* and prohibition. Instead, they filed a Manifestation and Motion dated December 3, 2001, whereby they prayed for the dismissal of the petition on the ground of mootness due to Commissioner Villanueva's November 19, 2001 memorandum.^[17]

In the resolution promulgated on April 2, 2002,^[18] the CA denied the respondents' Manifestation and Motion dated December 3, 2001.

Meanwhile, on November 14, 2001, Collector Bibit denied the motion for the quashal of the warrant of seizure issued against the rice shipments, and ordered their forfeiture in favor of the Government.^[19]

The petitioner appealed the November 14, 2001 ruling by Collector Bibit to Commissioner Villanueva,^[20] who resolved the appeal through the Consolidated Order of February 4, 2002, disposing thusly:

WHEREFORE, the ORDER Appealed from is hereby MODIFIED, granting the Motion for Settlement under S.I. No. 2001-13 and accordingly ORDER the release of the 20,000 bags of Thai rice to claimants, R&C AGRO TRADE or to its duly authorized representative, upon payment of the settlement value of EIGHT MILLION FOUR HUNDRED THOUSAND PESOS (Php8,400,000.00) and AFFIRMING the FORFEITURE under S.I. No. 2001-13-B of the 180,000 bags of Thai rice consigned to different non-existing consignees in Indonesia and the denial of ownership by B.I. Naidu and Sons Ltd. of Fiji Island.

Let copies of this Order be furnished to all parties and offices concerned for information and guidance.

SO ORDERED.^[21]

On February 20, 2002, the petitioner filed in the CA its Comment on the respondents' Manifestation and Motion dated December 3, 2001, arguing that the issue concerning the October 18, 2001 Notice of Sale had not been rendered moot and academic but merely suspended; that it would move for the reconsideration of the February 4, 2002 Consolidated Order of Commissioner Villanueva; and that should its motion for reconsideration be denied, it would elevate the issues relative to the injunctive relief to the Court of Tax Appeals (CTA) by petition for *certiorari*.^[22]

On April 2, 2002, the CA denied the respondents' Manifestation and Motion dated December 3, 2001.^[23]

On July 22, 2002, Commissioner Antonio M. Bernardo, who had meanwhile succeeded Commissioner Villanueva, released the 2nd Indorsement directing the sale of the 180,000 bags of Thai white rice at public auction.^[24] Accordingly, District Collector Felipe Bartolome issued a Notice of Sale scheduling the public

auction on July 29, 2002 and July 30, 2002.^[25] The public auction was reset to August 5, 2002 and August 6, 2002, however, following the CA's promulgation of its resolution on July 29, 2002 granting the petitioner's motion for the issuance of a writ of preliminary injunction.^[26]

Eventually, the auction sale went on as scheduled on August 5, 2002 and August 6, 2002, and the proceeds amounting to P116,640,000.00 were deposited in the Land Bank of the Philippines, Subic Branch, under Bureau of Customs Trust Fund II Account No. 1572100800.

Judgment of the CA

On November 18, 2002, the CA rendered its assailed judgment on the petition for *certiorari* and prohibition, *viz*:

Although it is true that the Port of Subic is a free zone, being a portion of the Subic Special Economic Zone, and as such, it shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the Subic Special Economic Zone under Republic Act No. 2779 (sic), particularly Section 12 thereof, yet, when probable cause is shown that the foreign goods are considered as contraband or smuggled goods, the Commissioner of Customs has the primary jurisdiction to have the goods seized through the issuance of a warrant of seizure and detention order, which is the situation obtaining in this instant case because when public respondent Collector Billy C. Bibit as District Collector of Customs, Port of Subic, issued an amended warrant of seizure and detention order S.I. No. 2001-13-B, dated September 27, 2001 to include in the seizure proceeding the subject 180,000 bags of rice, it was done due to the information supplied by the Directorate General of Customs and Excise Directorate of Prevention and Investigation of the Ministry of Finance of the Republic of Indonesia and the information obtained from the Director for Enforcement of the Fiji Revenue and Customs Authorities of Fiji Island Customs Service, that the alleged consignees in Indonesia are not actually existing and that B.I. Naidu and Sons, Ltd. of Fiji Island is not engaged in the importation of rice.

In accordance with Section 2535 of the Tariff and Customs Code, as amended, since the government has already complied with the two (2) conditions set forth therein, the burden of proof now lies upon the complainant, who in this case is the petitioner, to prove otherwise.

Moreover, contrary to the contention of the petitioner that it was denied due process of law when the amended Warrant of Seizure and Detention Order S.I. No. 2002-13B dated September 27, 2001 was issued, because it was done without giving them an opportunity to be heard and explain their side, suffice it to say that "the essence of due process is simply to be heard or as applied to administrative proceedings, to explain one's side or an opportunity to seek reconsideration of an action or ruling complained of " (*National Police Commission v. Bernabe*, 332 SCRA 74) and "due process does not necessarily require conducting an actual

hearing but simply giving the party concerned due notice and affording an opportunity or right to be heard” (*Ramoran v. Jardine CMG Life Insurance Company, Inc.*) which opportunity was given to the petitioner since it was able to file an Urgent Motion to Quash Warrant of Seizure dated October 1, 2001 and Manifestation and Urgent Motion for Reconsideration dated October 19, 2001 which were all denied in a decision dated November 14, 2001 by the Collector of Customs and instead ordered the forfeiture of the subject bags of rice in favor of the government.

Furthermore, on appeal to the Commissioner of Customs of the Order forfeiting the 180,000 bags of Thai rice seized under S.I. No. 2001-13B, the same was affirmed, per Consolidated Order dated February 4, 2002.

Consequently, it is not correct as claimed by the petitioner that the notice (auction) sale dated October 18, 2001, as well as, the subsequent notices of auction sale are invalid because they were issued pursuant to a valid Warrant of Seizure and Detention Order S.I. No. 2001-13B, dated September 27, 2001.

Finally, since the jurisdiction to determine the validity or regularity of the seizure and forfeiture proceedings is lodged or vested on the Collector of Customs and then, to the Commissioner of Customs, which has already been done in this case before the actual conduct of the auction sale of the subject 180,000 bags of rice, the next move that petitioner should have done is to appeal the Consolidated Order dated February 4, 2002 to the Court of Tax Appeals and afterward, if unsatisfied, to this Court, by filing a petition for review under Rule 43 of the 1997 Rules of Civil Procedure, as amended.

WHEREFORE, foregoing premises considered, this petition, being filed prematurely, is **DENIED**.

SO ORDERED.^[27]

The petitioner moved for reconsideration, but the CA denied the motion on May 8, 2003.^[28]

Issues

In its petition for review, the petitioner contends that:

1. THE COURT OF APPEALS ERRED IN NOT DECLARING THE SEIZURE PROCEEDINGS NULL AND VOID FOR LACK OF JURISDICTION OVER PETITIONER’S RICE SHIPMENT.
2. THE COURT OF APPEALS ERRED IN NOT DECLARING THE RESPONDENTS TO HAVE GRAVELY ABUSED THEIR DISCRETION IN THE SALE OF PETITIONER’S RICE SHIPMENT.