

FIRST DIVISION

[G.R. NO. 165027, October 16, 2006]

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

D E C I S I O N

CHICO-NAZARIO, J.:

This case is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to annul and set aside the Court of Appeals Decision^[1] in CA-G.R. SP No. 77684 entitled, *Proton Pilipinas Corporation v. Hon. Juan C. Nabong*, dated 29 April 2004 and its Resolution^[2] dated 2 August 2004, which respectively dismissed the Petition for *Certiorari* filed by petitioner and denied its Motion for Reconsideration, thereby affirming the Orders issued by the Regional Trial Court (RTC) of Manila dated 24 January 2003^[3] and 15 April 2003.^[4]

The controversy arose from the following facts:

Herein petitioner Proton Pilipinas Corporation (Proton) is a corporation duly organized and existing under Philippine laws and duly registered^[5] with the Board of Investments (BOI). It is engaged in the business of importing, manufacturing, and selling vehicles.

Sometime in 1997, Devmark Textile Industries, Inc. (Devmark), a corporation duly registered with the Securities and Exchange Commission (SEC) and with the BOI, and engaged in the business of spinning, knitting, weaving, dyeing, and finishing all types of textile, yarns, and fabrics, together with Texasia, Inc. (Texasia), expressed the intention to purchase the various vehicles distributed and marketed by petitioner. In payment thereof, the above named companies offered petitioner their Tax Credit Certificates (TCCs) worth P30,817,191.00. The companies, through their officers, guaranteed petitioner that the TCCs were valid, genuine, and subsisting. They further assured petitioner that said TCCs were a safe and a valid mode of payment for import duties and taxes as they were issued by the Department of Finance (DOF) and duly honored and accepted by the Bureau of Customs (BOC).

Persuaded by the representations and assurances made by the two companies as to the legality of the transaction, Paul Y. Rodriguez, in his capacity as Executive Vice-President of Proton, signed a Deed of Assignment^[6] with Eulogio L. Reyes, General Manager of Devmark. The terms and conditions of the Deed of Assignment are as follows:

1. That the acceptance by the ASSIGNEE of the above duty/taxes credit certificate being assigned by ASSIGNOR shall be subject to condition that the [DOF] approves the proposed assignment.

2. For the purpose of this assignment, the above duty/taxes certificates being assigned hereby to ASSIGNEE shall not be credited as payment of ASSIGNOR's account unless and until ASSIGNEE has in turn utilized/applied the same with the [BOC] or Bureau of Internal Revenue [BIR] for payment of each duty/tax obligations.
3. ASSIGNEE undertakes to issue to ASSIGNOR the Tax Credit corresponding credit notes, as when the above duty/taxes credit certificates was (sic) use[d]/applied, either partially or fully by the ASSIGNEE, in payment of ASSIGNEE's duty/taxes obligation with the [BOC] or [BIR], respectively.
4. Withstanding the above-stated arrangement, such Tax Credit assigned and transferred by the ASSIGNOR to ASSIGNEE shall be subject to post-audit by the Government and shall be credited to the ASSIGNOR only upon actual availment thereof by ASSIGNEE.
5. If the whole or any portion of the Tax Credit assigned and transferred by ASSIGNOR to the ASSIGNEE is disallowed by the Government upon post-audit or cannot be utilized for any cause or reason not attributable to the fault negligence of the ASSIGNEE, the whole amount corresponding such Tax Credit or such portion thereof as is disallowed by the Government or cannot be utilized by ASSIGNEE shall be paid in cash to ASSIGNEE by the ASSIGNOR immediately upon receipt of written notice of such event.^[7]

Consequently, the TCCs, as well as their transfers to petitioner, were submitted to the DOF for evaluation and approval. Thereafter, the DOF, through its Undersecretary Antonio P. Belicena, cleared said TCCs for transaction and approved them for transfer. For that reason, petitioner delivered 13 vehicles with a total value of P10,778,500.00 and post-dated checks worth P10,592,618.00, in exchange for the said TCCs, to Devmark and Texasia in accordance with their agreement. In turn, petitioner used the TCCs for payment of its customs duties and taxes to the BOC.

In the interim, the Office of the Ombudsman (Ombudsman) under Hon. Aniano Desierto began conducting an investigation on the alleged "P60 Billion DOF Tax Credit Scam" in July 1998. On 30 March 1999, Silverio T. Manuel, Jr., as Graft Investigator II, was given the assignment to look into the alleged irregular issuances of four TCCs to Devmark and its subsequent transfer to and utilization by petitioner.

Based on the Fact-Finding Report^[8] dated 29 October 1999 of the Fact Finding and Investigation Bureau, Ombudsman, the TCCs were found to be irregularly and fraudulently issued by several officers of the DOF, including its Department Undersecretary Belicena, to Devmark. As revealed in the said Report, all the pertinent documents submitted by Devmark in support of its application for the TCCs were fake and spurious. As a consequence thereof, the transfers of the subject TCCs to petitioner and their subsequent use of the same was declared invalid and illegal. The Report recommended among other things, that the directors of the petitioner and Devmark, along with several DOF officers, be criminally charged with violation of Section 3(e) and (j) of Republic Act No. 3019,^[9] otherwise

known as *The Anti-Graft and Corrupt Practices Act*.

On the weight of the Fact-Finding Report, the Ombudsman filed with the Sandiganbayan, Criminal Cases No. 26168 to 71^[10] charging DOF Undersecretary Belicena together with Reyes, General Manager of Devmark, Peter Y. Rodriguez and Paul Y. Rodriguez, in their capacity as Director and Executive Vice-President/Chief Operating Officer of the petitioner, respectively, for violation of Section 3(e) and (j) of Republic Act No. 3019.

In turn, petitioner filed a criminal case for Estafa against the officers of Devmark with the City Prosecutor of Mandaluyong, docketed as I.S. No. 00-42921-K, entitled, *Proton Pilipinas, Inc. v. Robert Liang*. The BOC on the other hand, filed Civil Case No. 02-102650^[11] against petitioner before the RTC for the collection of taxes and customs duties, which remain unpaid because the subject TCCs had been cancelled brought about by petitioner's use of fraudulent TCCs in paying its obligations.

Petitioner then filed a Motion to Dismiss^[12] the aforesaid civil case filed against it by BOC on the grounds of lack of jurisdiction, prematurity of action, and *litis pendentia*. The said Motion, however, was denied by the trial court in its Order dated 24 January 2003. Petitioner sought reconsideration of the above-mentioned Order, but the same was likewise denied in another Order dated 15 April 2003.

Feeling aggrieved, petitioner filed before the Court of Appeals a Petition for *Certiorari* under Rule 65 of the Revised Rules of Civil Procedure seeking to annul the Orders of the trial court.

On 29 April 2004, the Court of Appeals rendered a Decision dismissing the Petition for lack of merit and affirming the RTC Orders. On 7 June 2004, petitioner moved for reconsideration but the same was denied in the Court of Appeals Resolution dated 2 August 2004.

Hence, this Petition.

In the petitioner's Memorandum,^[13] it ascribes the following errors committed by the Court of Appeals:

I.

The Honorable Court of Appeals erred in affirming the RTC Orders and, consequently, in not dismissing the Civil Case because, per Section 4, RA 8249, the Sandiganbayan has sole and exclusive jurisdiction over the subject matter thereof.

1. Per Section 4, RA 8249, the Sandiganbayan has sole and exclusive jurisdiction over the subject matter of the Civil Case to the exclusion of the RTC.

- a. The expanded jurisdiction of the Sandiganbayan under RA 8249 covers the subject matter of the Civil Case.

- i. Before, the exclusive jurisdiction of the Sandiganbayan over civil actions was limited

only to "civil liability arising from the offense charged" per [Presidential Decree] PD 1861 and RA 7975. But now under RA 8249, Sandiganbayan has the exclusive expanded jurisdiction over all civil actions for recovery of civil liability regardless of whether or not they arise from the offense charged.

ii. In fact, the language of the law is clear and extant that this expanded jurisdiction of the Sandiganbayan supersedes "any provision of law or the rules of court."

iii. The subject matter of the Civil Case, being the civil aspect of the Criminal Cases, is deemed simultaneously instituted in the latter.

II

The Honorable Court of Appeals erred in holding that the *litis pendentia* rule is inapplicable and that the civil case is not premature.

1. The requisites of *litis pendentia* are present in the Criminal Cases and the Civil Case.

- a. There is identity of parties or at least such as representing the same interest in both actions-
- b. There is identity of rights asserted and relief prayed for, the relief being founded on the same facts-
- c. The identity in the two (2) cases is such that the judgment that may be rendered in the pending case would, regardless of which party is successful, amount to *res judicata* in the other-
- d. Even assuming that not all the requisites of *litis pendentia* under the Rules of Court are present, the pendency of the Criminal Cases constitute some form of *litis pendentia* by express provision of Section 4, RA 8249.

2. In any event, the Civil Case is premature since the validity or invalidity of the TCCs is a prejudicial issue that has yet to be resolved with finality by the Sandiganbayan in the Criminal Cases.

Given the foregoing, this Court restates the issues for resolution in the Petition at bar, as follows:

- I. Whether or not the jurisdiction over Civil Case No. 02-102650, involving collection of unpaid customs duties and taxes of petitioner, belongs to the Sandiganbayan and not to the RTC, as it can be

considered the civil aspect of the Criminal Cases filed before the Sandiganbayan, hence, deemed instituted in the latter.

II. Whether or not the Court of Appeals erred in holding that, the rule on *lis pendens* is inapplicable in the present case.

III. Whether or not the institution of the aforesaid Civil Case is premature as the determination of the validity or invalidity of the TCCs is a prejudicial issue that must first be resolved with finality in the Criminal Cases filed before the Sandiganbayan.

The Petition is bereft of merit.

In the instant case, petitioner argues that since the filing of the criminal cases was anchored on the alleged conspiracy among accused public officials, including the corporate officers, regarding the anomalous and illegal transfer of four TCCs from Devmark to petitioner and the latter's subsequent use of three TCCs in paying their customs duties and taxes to the detriment of the government, the civil case regarding collection of unpaid customs duties and taxes was deemed impliedly instituted with the criminal cases before the Sandiganbayan, being the civil aspect of the criminal cases. To buttress its assertion, petitioner quoted the last paragraph of Section 4, Republic Act No. 8249, which states that:

Any provision of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the *Sandiganbayan* or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: x x x.

It is a truism beyond doubt that the jurisdiction of the court over a subject matter is conferred only by the Constitution or by law.^[14] In addition, it is settled that jurisdiction is determined by the allegations in the complaint.^[15]

Accordingly, as can be gleaned from the Complaint for Collection of Money with Damages^[16] filed by the Government against petitioner, what the former seeks is the payment of customs duties and taxes due from petitioner, which remain unpaid by reason of the cancellation of the subject TCCs for being fake and spurious. Said Complaint has nothing to do with the criminal liability of the accused, which the Government wants to enforce in the criminal cases filed before the Sandiganbayan. This can be clearly inferred from the fact that only petitioner was impleaded in the said Complaint.

While it is true that according to the aforesaid Section 4, of Republic Act No. 8249, the institution of the criminal action automatically carries with it the institution of the civil action for the recovery of civil liability, however, in the case at bar, the civil case for the collection of unpaid customs duties and taxes cannot be simultaneously instituted and determined in the same proceedings as the criminal cases before the Sandiganbayan, as it cannot be made the civil aspect of the criminal cases filed before it. It should be borne in mind that the tax and the obligation to pay the