

## THIRD DIVISION

[ G.R. No. 177188, December 04, 2008 ]

**EL GRECO SHIP MANNING AND MANAGEMENT CORPORATION,  
PETITIONER, VS. COMMISSIONER OF CUSTOMS, RESPONDENT.**

### DECISION

**CHICO-NAZARIO, J.:**

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, filed by petitioner El Greco Ship Manning and Management Corporation (El Greco), seeking to reverse and set aside the Decision<sup>[1]</sup> of the Court of Tax Appeals (CTA) *En Banc* dated 14 March 2007 in C.T.A. EB No. 162. In its assailed Decision, the CTA *En Banc* affirmed the Decision<sup>[2]</sup> dated 17 October 2005 of the CTA Second Division in CTA Case No. 6618, ordering the forfeiture of the vessel M/V Criston, also known as M/V Neptune Breeze, for having been involved in the smuggling of 35,000 bags of imported rice.

The factual and procedural antecedents of this case are as follows:

On 23 September 2001, the vessel M/V Criston docked at the Port of Tabaco, Albay, carrying a shipment of 35,000 bags of imported rice, consigned to Antonio Chua, Jr. (Chua) and Carlos Carillo (Carillo), payable upon its delivery to Albay. Glucer Shipping Company, Inc. (Glucer Shipping) is the operator of M/V Criston.<sup>[3]</sup>

Upon the directive of then Commissioner Titus Villanueva of the Bureau of Customs (BOC), a Warrant of Seizure and Detention, **Seizure Identification No. 06-2001**, was issued by the Legaspi District Collector, on 23 September 2001 for the 35,000 bags of imported rice shipped by M/V Criston, on the ground that it left the Port of Manila without the necessary clearance from the Philippine Coast Guard. Since the earlier Warrant covered only the cargo, but not M/V Criston which transported it, a subsequent Warrant of Seizure and Detention, **Seizure Identification No. 06-2001-A**, was issued on 18 October 2001 particularly for the said vessel. The BOC District Collector of the Port of Legaspi thereafter commenced proceedings for the forfeiture of M/V Criston and its cargo under Seizure Identification No. 06-2001-A and Seizure Identification No. 06-2001, respectively.

<sup>[4]</sup>

To protect their property rights over the cargo, consignees Chua and Carillo filed before the

Regional Trial Court (RTC) of Tabaco, Albay, a Petition for Prohibition with Prayer for the Issuance of Preliminary Injunction and Temporary Restraining Order (TRO) assailing the authority of the Legaspi District Collectors to issue the Warrants of Seizure and Detention and praying for a permanent injunction against the implementation of the said Warrants. Their Petition was docketed as Civil Case No. T-2170.<sup>[5]</sup>

After finding the Petition sufficient in form and substance and considering the extreme urgency of the matter involved, the RTC issued a 72-hour TRO conditioned upon the filing by Chua and Carillo of a bond in the amount of P31,450,000.00, representing the value of the goods. After Chua and Carillo posted the required bond, the 35,000 bags of rice were released to them.<sup>[6]</sup>

The Legaspi District Collector held in abeyance the proceedings for the forfeiture of M/V Criston and its cargo under Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A pending the resolution by the RTC of Civil Case No. T-2170. When the RTC granted the Motion to Dismiss Civil Case No. T-2170 filed by the BOC, the Legaspi District Collector set the hearing of Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A. A notice of the scheduled hearing of the aforementioned seizure cases was sent to Glucer Shipping but it failed to appear at the hearing so set. After a second notice of hearing was ignored by Glucer Shipping, the prosecutor was allowed to present his witnesses.<sup>[7]</sup>

In the meantime, while M/V Criston was berthing at the Port of Tabaco under the custody of the BOC, the Province of Albay was hit by typhoon "Manang." In order to avert any damage which could be caused by the typhoon, the vessel was allowed to proceed to another anchorage area to temporarily seek shelter. After typhoon "Manang" had passed through Albay province, M/V Criston, however, failed to return to the Port of Tabaco and was nowhere to be found.<sup>[8]</sup>

Alarmed, the BOC and the Philippine Coast Guard coordinated with the Philippine Air Force to find the missing vessel. On 8 November 2001, the BOC received information that M/V Criston was found in the waters of Bataan sporting the name of M/V Neptune Breeze.<sup>[9]</sup>

Based on the above information and for failure of M/V Neptune Breeze to present a clearance from its last port of call, a Warrant of Seizure and Detention under **Seizure Identification No. 2001-208** was issued against the vessel by the BOC District Collector of the Port of Manila.<sup>[10]</sup>

For the same reasons, the Legaspi District Collector rendered a Decision on 27 June 2002 in Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A ordering the forfeiture of the M/V Criston, also known as M/V Neptune Breeze, and its cargo, for violating Section 2530 (a), (f) and (k) of the Tariff and Customs Code.<sup>[11]</sup>

In the meantime, El Greco, the duly authorized local agent of the registered owner of M/V Neptune Breeze, Atlantic Pacific Corporation, Inc. (Atlantic Pacific), filed with the Manila District Collector, in Seizure Identification No. 2001-208, a Motion for Intervention and Motion to Quash Warrant of Seizure Detention with Urgent Prayer for the Immediate Release of M/V Neptune Breeze. El Greco claimed that M/V Neptune Breeze was a foreign registered vessel owned by Atlantic Pacific, and different from M/V Criston which had been involved in smuggling activities in Legaspi, Albay.<sup>[12]</sup>

Acting favorably on the motion of El Greco, the Manila District Collector issued an Order<sup>[13]</sup> dated 11 March 2002 quashing the Warrant of Seizure and Detention it issued against M/V Neptune Breeze in Seizure Identification No. 2001-208 for lack of probable cause that the said vessel was the same one known as M/V Criston which fled from the jurisdiction of the BOC Legaspi District after being seized and detained therein for allegedly engaging in smuggling activities. According to the decretal part of the Manila District Collector's Order:

WHEREFORE, pursuant to the authority vested in me by law, it is hereby ordered and decreed that the Warrant of Seizure and Detention issued thereof be Quashed for want of factual or legal basis, and that the vessel "M/V Neptune Brreeze" be released to [El Greco] after clearance with the Commissioner of Customs, proper identification and compliance with existing rules and regulations pertinent in the premises.

On automatic review by BOC Commissioner Antonio Bernardo, the Order dated 11 March 2002 of the District Collector of the Port of Manila was reversed after finding that M/V Neptune Breeze and M/V Criston were one and the same and that the Legaspi District Collector had already acquired prior jurisdiction over the vessel. The Decision dated 15 January 2003 of the BOC Commissioner, contained in his 2<sup>nd</sup> Indorsement<sup>[14]</sup> to the Manila District Collector, decreed:

Respectfully returned to the District Collector, POM, the within case folders in POM S. I. No. 2001-208, EL GRECO SHIP MANNING AND MANAGEMENT CORPORATION, Claimant/Intervenor, with the information that the Decision of that Port in the aforesaid case is hereby REVERSED in view of the following reasons:

1. Subject vessel MV "NEPTUNE BREEZE" and MV "CRISTON" are one and the same as shown by the vessels documents retrieved by the elements of the Philippine Coast Guard from MV "CRISTON" during the search conducted on board thereof when the same was apprehended in Tabaco, Albay, indicating therein the name of the vessel MV "NEPTUNE BREEZE," the name of the master of the vessel a certain YUSHAWU AWUDU, etc. These facts were corroborated by the footage of ABS-CBN taken on board the vessel when the same was subjected to search.

2. Hence, prior jurisdiction over the said vessel was already acquired by the Port of Legaspi when the said Port issued WSD S.I. No. 06-2001-A and therefore, the Decision of the latter Port forfeiting the subject vessel supercedes the Decision of that Port ordering its release.

Seeking the reversal of the Decision dated 15 January 2003 of the BOC Commissioner, El Greco filed a Petition for Review with the CTA which was lodged before its Second Division as CTA Case No. 6618. El Greco averred that the BOC Commissioner committed grave abuse of discretion in ordering the forfeiture of the M/V Neptune Breeze in the absence of proof that M/V Neptune Breeze and M/V Criston were one and the same vessel.

[15] According to El Greco, it was highly improbable that M/V Criston was merely assuming the identity of M/V Neptune Breeze in order to evade liability since these were distinct and separate vessels as evidenced by their Certificates of Registry. While M/V Neptune Breeze was registered in St. Vincent and the Grenadines<sup>[16]</sup> as shown in its Certificate of Registry No. 7298/N, M/V Criston was registered in the Philippines. Additionally, El Greco argued that the Order dated 11 March 2002 of the Manila District Collector already became final and executory for failure of the BOC Commissioner to act thereon within a period of 30 days in accordance with Section 2313 of the Tariff and Customs Code.

On 17 October 2005, the CTA Second Division rendered a Decision<sup>[17]</sup> in CTA Case No. 6618 sustaining the 15 January 2003 Decision of the BOC Commissioner ordering the forfeiture of M/V Neptune Breeze. Referring to the crime laboratory report submitted by the Philippine National Police (PNP) stating that the serial numbers of the engines and the generators of both M/V Criston and M/V Neptune Breeze were identical, the CTA Second Division concluded that both vessels were indeed one and the same vessel. The CTA Second Division further ruled that nothing in the provisions of Section 2313 of the Tariff and Customs Code could buttress El Greco's contention that the Order dated 11 March 2002 of the Manila District Collector already became final and executory. The dispositive portion of the Decision of the CTA Second Division reads:

WHEREFORE, premises considered, the present Petition for Review is hereby **DISMISSED**. The Decision in the 2<sup>nd</sup> Indorsement dated January 15, 2003 of then Commissioner Bernardo is hereby **AFFIRMED**.<sup>[18]</sup>

In a Resolution<sup>[19]</sup> dated 7 February 2006, the CTA Second Division denied the Motion for Reconsideration of El Greco for failure to present issues that had not been previously threshed out in its earlier Decision.

Undaunted, El Greco elevated its case to the CTA *En Banc* through a Petition for Review, docketed as C.T.A. EB No. 162, this time lamenting that it was being deprived of its property without due process of law. El Greco asserted that the CTA Second Division violated its constitutional right to due process when it upheld the forfeiture of M/V

Neptune Breeze on the basis of the evidence presented before the Legaspi District Collector in Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A, of which El Greco was not notified and in which it was not able to participate.<sup>[20]</sup>

In its Decision<sup>[21]</sup> promulgated on 14 March 2007, the CTA *En Banc* declared that the CTA Second Division did not commit any error in its disquisition, and dismissed the Petition of El Greco in C.T.A. EB No. 162 for lack of merit. According to the CTA *En Banc*, the appreciation and calibration of evidence on appeal (from the ruling of the BOC) lies within the sound discretion of its Division, and the latter's findings and conclusions cannot be set aside unless it has been sufficiently shown that they are not supported by evidence on record. The CTA *En Banc* thus disposed:

WHEREFORE, the instant petition is hereby DISMISSED. Accordingly, the assailed Decision promulgated on October 17, 2005 and Resolution dated February 7, 2006 of the Second Division of this Court, are hereby AFFIRMED.

<sup>[22]</sup>

Without filing a Motion for Reconsideration with the CTA, El Greco already sought recourse before this Court *via* this Petition for Review on *Certiorari*, raising the following issues:

I.

WHETHER OR NOT EL GRECO WAS DENIED OF ITS RIGHT TO DUE PROCESS.

II.

WHETHER OR NOT M/V NEPTUNE BREEZE AND M/V CRISTON ARE ONE AND THE SAME VESSEL.

III.

WHETHER OR NOT M/V NEPTUNE BREEZE IS QUALIFIED TO BE THE SUBJECT OF FORFEITURE UNDER SECTION 2531 OF THE TARIFF AND CUSTOMS CODE.

The primordial issue to be determined by this Court is whether M/V Neptune Breeze is one and the same as M/V Criston which had been detained at the Port of Tabaco, Albay, for carrying smuggled imported rice and had fled the custody of the customs authorities to evade its liabilities.

El Greco insists that M/V Neptune Breeze and M/V Criston are not the same vessel. In support of its position, El Greco again presents the foreign registration of its vessel as opposed to the local registration of M/V Criston.

The CTA *En Banc*, however, affirming the findings of the CTA Second Division, as well as the Legaspi District Collector, concluded otherwise.

We sustain the determination of the CTA *En Banc* on this matter.

Well-entrenched is the rule that findings of facts of the CTA are binding on this Court and can only be disturbed on appeal if not supported by substantial evidence.<sup>[23]</sup> Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.<sup>[24]</sup>

A review of the records of the present case unveils the overwhelming and utterly significant pieces of evidence that more than meets the quantum of evidence necessary to establish that M/V Neptune Breeze is the very same vessel as M/V Criston, which left the anchorage area at Legaspi, Albay, without the consent of the customs authorities therein while under detention for smuggling 35,000 bags of imported rice.

The crime laboratory report of the PNP shows that the serial numbers of the engines and generators of the two vessels are identical. El Greco failed to rebut this piece of evidence that decisively identified M/V Neptune Breeze as the same as M/V Criston. We take judicial notice that along with gross tonnage, net tonnage, length and breadth of the vessel, the serial numbers of its engine and generator are the necessary information identifying a vessel. In much the same way, the identity of a land motor vehicle is established by its unique motor and chassis numbers. It is, thus, highly improbable that two totally different vessels would have engines and generators bearing the very same serial numbers; and the only logical conclusion is that they must be one and the same vessel.

Equally significant is the finding of the Legaspi District Collector that all the documents submitted by M/V Criston were spurious, including its supposed registration in the Philippines. In a letter dated 14 March 2002, Marina Administrator Oscar M. Sevilla attested that M/V Criston was not registered with the Marina.

Finally, Customs Guard Adolfo Capistrano testified that the features of M/V Criston and M/V Neptune Breeze were similar; while Coast Guard Commander Cirilo Ortiz narrated that he found documents inside M/V Criston bearing the name M/V Neptune Breeze. These testimonies further fortified the conclusion reached by the Legaspi District Collector that M/V Criston and M/V Neptune Breeze were one and the same.

We also take note that the purported operator of M/V Criston, Glucer Shipping, was a total no-show at the hearings held in Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A before the Legaspi District Collector. Despite being sent several notices of hearing to its supposed address, Glucer Shipping still failed to appear in the said proceedings. It becomes highly unfathomable for an owner to ignore proceedings for the seizure of its vessel, risking the loss of a property of enormous value.

From the foregoing, we can only deduce that there is actually no Glucer Shipping and no M/V Criston. M/V Criston appears to be a mere fictional identity assumed by M/V Neptune Breeze so it may conduct its smuggling activities with little risk of being identified and held liable therefor.

We cannot give much credence to the self-serving denial by El Greco that M/V Neptune Breeze is not the same as M/V Criston in light of the substantial evidence on record to the contrary. The foreign registration of M/V Neptune Breeze proves only that it was registered in a foreign country; but it does not render impossible the conclusions consistently reached by the Legaspi District Collector, the CTA Second Division and the CTA *en banc*, and presently by this Court, that M/V Neptune Breeze was the very same vessel used in the conduct of smuggling activities in the name M/V Criston.

Neither can we permit El Greco to evade the forfeiture of its vessel, as a consequence of its being used in smuggling activities, by decrying denial of due process.

In administrative proceedings, such as those before the BOC, technical rules of procedure and evidence are not strictly applied and administrative due process cannot be fully equated with due process in its strict judicial sense.<sup>[25]</sup> The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.<sup>[26]</sup>

Although it was not able to participate in the proceedings in Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A before the Legaspi District Collector, it had ample opportunity to present its side of the controversy in Seizure Identification No. 2001-208 before the Manila District Collector. To recall, full proceedings were held before the Manila District Collector in Seizure Identification No. 2001-208. Even the evidence presented by El Greco in the latter proceedings fails to persuade. The only vital evidence it presented before the Manila District Collector in Seizure Identification No. 2001-208 was the foreign registration of M/V Neptune Breeze. It was still the same piece of evidence which El Greco submitted to this Court. Even when taken into consideration and weighed against each other, the considerably sparse evidence of El Greco in Seizure Identification No. 2001-208 could not successfully refute the substantial evidence in Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A that M/V Neptune Breeze is the same as M/V Criston.

Moreover, the claim of El Greco that it was denied due process flounders in light of its ample opportunity to rebut the findings of the Legaspi District Collector in Seizure Identification No. 06-2001 and No. 06-2001-A before the CTA Second Division in CTA Case No. 6618 and the CTA *En Banc* in C.T.A. EB No. 162, and now before this Court in the Petition at bar. Unfortunately, El Greco was unable to make full use to its advantage of these repeated opportunities by offering all possible evidence in support of its case. For example, evidence that could establish that M/V Neptune Breeze was somewhere else at the time when M/V Criston was being held by customs authority at the Port of Legaspi,

Albay, would have been helpful to El Greco's cause and very easy to secure, but is glaringly absent herein.

After having established that M/V Neptune Breeze is one and the same as M/V Criston, we come to another crucial issue in the case at bar, that is, whether the order of forfeiture of the M/V Neptune Breeze is valid.

The pertinent provisions of the Tariff and Customs Code read:

SEC. 2530. *Property Subject to Forfeiture Under Tariff and Customs Law.* - Any vehicle, vessel or aircraft, cargo, articles and other objects shall, under the following conditions, be subject to forfeiture:

- a. Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of articles or in conveying and/or transporting contraband or smuggled articles in commercial quantities into or from any Philippine port or place. The mere carrying or holding on board of contraband or smuggled articles in commercial quantities shall subject such vessel, vehicle, aircraft or any other craft to forfeiture; Provided, That the vessel, or aircraft or any other craft is not used as duly authorized common carrier and as such a carrier it is not chartered or leased;

x x x x

- f. Any article, the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were intended to be used as instruments in the importation or exportation of the former;

x x x x

- k. Any conveyance actually being used for the transport of articles subject to forfeiture under the tariff and customs laws, with its equipage or trappings, and any vehicle similarly used, together with its equipage and appurtenances including the beast, steam or other motive power drawing or propelling the same. The mere conveyance of contraband or smuggled articles by such beast or vehicle shall be sufficient cause for the outright seizure and confiscation of such beast or vehicle, but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, is engaged as common carrier and not chartered or leased, or his agent in charge thereof at the time has no knowledge of the unlawful act.

The penalty of forfeiture is imposed on any vessel engaged in smuggling, provided that the

following conditions are present:

- (1) The vessel is "used unlawfully in the importation or exportation of articles into or from" the Philippines;
- (2) The articles are imported to or exported from "any Philippine port or place, except a port of entry"; or
- (3) If the vessel has a capacity of less than 30 tons and is "used in the importation of articles into any Philippine port or place other than a port of the Sulu Sea, where importation in such vessel may be authorized by the Commissioner, with the approval of the department head."<sup>[27]</sup>

There is no question that M/V Neptune Breeze, then known as M/V Criston, was carrying 35,000 bags of imported rice without the necessary papers showing that they were entered lawfully through a Philippine port after the payment of appropriate taxes and duties thereon. This gives rise to the presumption that such importation was illegal. Consequently, the rice subject of the importation, as well as the vessel M/V Neptune Breeze used in importation are subject to forfeiture. The burden is on El Greco, as the owner of M/V Neptune Breeze, to show that its conveyance of the rice was actually legal. Unfortunately, its claim that the cargo was not of foreign origin but was merely loaded at North Harbor, Manila, was belied by the following evidence - the Incoming Journal of the Philippine Coast Guard, Certification issued by the Department of Transportation and Communications (DOTC) Port State Control Center of Manila, and the letter dated 4 October 2001 issued by the Sub-Port of North Harbor Collector Edward de la Cuesta, confirming that there was no such loading of rice or calling of vessel occurring at North Harbor, Manila. It is, therefore, uncontroverted that the 35,000 bags of imported rice were smuggled into the Philippines using M/V Neptune Breeze.

We cannot give credence to the argument of El Greco that the Order dated 11 March 2002 of the Manila District Collector, finding no probable cause that M/V Neptune Breeze is the same as M/V Criston, has already become final and executory, thus, irreversible, pursuant to Section 2313 of the Tariff and Customs Code. According to said provision:

SEC. 2313. *Review of Commissioner.* - The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen (15) days after notification in writing by the Collector of his action or decision, file a written notice to the Collector with a copy furnished to the Commissioner of his intention to appeal the action or decision of the Collector to the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision: Provided, That when an appeal is filed beyond the period herein prescribed, the same shall be deemed dismissed.

If in any seizure proceedings, the Collector renders a decision adverse to the Government, such decision shall be automatically reviewed by the Commissioner and the records of the case elevated within five (5) days from the promulgation of the decision of the Collector. The Commissioner shall render a decision on the automatic appeal within thirty (30) days from receipts of the records of the case. If the Collector's decision is reversed by the Commissioner, the decision of the Commissioner shall be final and executory. However, if the Collector's decision is affirmed, **or if within thirty (30) days from receipt of the record of the case by the Commissioner no decision is rendered** or the decision involves imported articles whose published value is five million pesos (P5,000,000.00) or more, **such decision shall be deemed automatically appealed to the Secretary of Finance** and the records of the proceedings shall be elevated within five (5) days from the promulgation of the decision of the Commissioner or of the Collector under appeal, as the case may be: Provided, further, That if the decision of the Commissioner or of the Collector under appeal as the case may be, is affirmed by the Secretary of Finance or if within thirty (30) days from receipt of the records of the proceedings by the Secretary of Finance, no decision is rendered, the decision of the Secretary of Finance, or of the Commissioner, or of the Collector under appeal, as the case may be, shall become final and executory.

In any seizure proceeding, the release of imported articles shall not be allowed unless and until a decision of the Collector has been confirmed in writing by the Commissioner of Customs. (Emphasis ours.)

There is nothing in Section 2313 of the Tariff and Customs Code to support the position of El Greco. As the CTA *en banc* explained, in case the BOC Commissioner fails to decide on the automatic appeal of the Collector's Decision within 30 days from receipt of the records thereof, the case shall again be deemed automatically appealed to the Secretary of Finance. Also working against El Greco is the fact that jurisdiction over M/V Neptune Breeze, otherwise known as M/V Criston, was first acquired by the Legaspi District Collector; thus, the Manila District Collector cannot validly acquire jurisdiction over the same vessel. Judgment rendered without jurisdiction is null and void, and void judgment cannot be the source of any right whatsoever. [28]

Finally, we strongly condemn the ploy used by M/V Neptune Breeze, assuming a different identity to smuggle goods into the country in a brazen attempt to defraud the government and the Filipino public and deprive them of much needed monetary resources. We further laud the efforts of the Commissioner of the Customs Bureau and the other executive officials in his department to curb the proliferation of smuggling syndicates in the country which deserves no less than our full support.

**WHEREFORE**, in view of the foregoing, the instant Petition is **DENIED**. The Decision dated 17 October 2005 and Resolution dated 7 February 2006 of the Court of Tax Appeals

*En Banc* in CTA EB No. 172 are **AFFIRMED**. Costs against the petitioner.

**SO ORDERED.**

*Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.*

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[1] Penned by Associate Justice Lovell R. Bautista with Associate Justices Ernesto D. Acosta, Juanito C. Castañeda, Jr., Erlinda P. Uy, Caesar A. Casanova, and Olga Palanca-Enriquez, concurring; *rollo*, pp. 137-154.

[2] Penned by Associate Justice Olga Palanca-Enriquez with Associate Justices Juanito C. Castañeda, Jr., and Erlinda P. Uy, concurring; *rollo*, pp. 75-97.

[3] *Rollo*, pp. 207-219.

[4] *Id.*

[5] *Chua, Jr. v. Villanueva*, G.R. No. 157591, 16 December 2005, 478 SCRA 264.

[6] *Id.*

[7] *Rollo*, pp. 137-154.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] SEC. 2530. *Property Subject to Forfeiture Under Tariff and Customs Law.* - Any vehicle, vessel or aircraft, cargo, articles and other objects shall, under the following conditions, be subject to forfeiture.

- a. Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of articles or in conveying and/or transporting contraband or smuggled articles in commercial quantities into or from any Philippine port or place. The mere carrying or holding on board of contraband or smuggled articles in commercial quantities shall subject such vessel, vehicle, aircraft or any other craft to forfeiture; Provided, That the vessel, or aircraft or any other craft is not used

as duly authorized common carrier and as such a carrier it is not chartered or leased;

x x x x

- f. Any article, the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were intended to be used as instruments in the importation or exportation of the former;

x x x x

- k. Any conveyance actually being used for the transport of articles subject to forfeiture under the tariff and customs laws, with its equipage or trappings, and any vehicle similarly used, together with its equipage and appurtenances including the beast, steam or other motive power drawing or propelling the same. The mere conveyance of contraband or smuggled articles by such beast or shall be sufficient cause for the outright seizure and confiscation of such beast or vehicle, but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, is engaged as common carrier and not chartered or leased, or his agent in charge thereof at the time has no knowledge of the unlawful act.

[12] *Rollo*, pp. 197-204.

[13] *Id.*

[14] *Id.* at 220.

[15] *Id.* at 75.

[16] An island nation located in the Lesser Antilles chain of the Caribbean Sea, a former British colony that became independent on 27 October 1979.

[17] *Rollo*, pp. 75-97.

[18] *Id.* at 97.

[19] *Id.* at 111-112.

[20] *Id.* at 137-138.

[21] *Id.* at 137-155.

[22] *Id.* at 154.

[23] *Commissioner of Internal Revenue v. Tours Specialists, Inc.*, G.R. No. 66416, 21 March 1990, 183 SCRA, 402, 407.

[24] *Ynson v. Court of Appeals*, 327 Phil. 191, 207 (1996).

[25] See *Samalio v. Court of Appeals*, G.R. No. 140079, 31 March 2005, 454 SCRA 462, 472.

[26] *Danan v. Court of Appeals*, G.R. No. 132759, 25 October 2005, 474 SCRA 113, 125.

[27] *Commissioner of Customs v. Manila Star Ferry, Inc.*, G.R. Nos. 31776-78, 21 October 1993, 227 SCRA 317, 321.

[28] *Vda. de Lopez v. Court of Appeals*, G.R. No. 146035, 9 September 2005, 469 SCRA 515, 523.