



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 208290**
Petitioner,

Present:

- versus -

VELASCO, JR., *J.*, *Chairperson.*
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

**THE HONORABLE JUANITO
C. CASTANEDA, JR.,
HONORABLE CAESAR A.
CASANOVA, HONORABLE
CIELITO N. MINDARO-
GRULLA, AS ASSOCIATE
JUSTICES OF THE SPECIAL
SECOND DIVISION, COURT
OF TAX APPEALS; and
MYRNA M. GARCIA AND
CUSTODIO MENDOZA
VESTIDAS, JR.,**

Promulgated:

Respondents.

December 11, 2013

x

Alcornoque

R E S O L U T I O N

PER CURIAM:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking to review the March 26, 2013¹ and May 15, 2013² Resolutions of the Court of Tax Appeals (*CTA*) in *CTA* Crim. Case No. 0-285, ordering the dismissal of the case against the private respondents for violation of Section

¹ *Rollo*, pp. 30-45.

² *Id.* at 62-64.

3602³ in relation to Sections 2503 and 2530 (f) (i) and 1, (3) (4) and (5) of the Tariff and Customs Code of the Philippines, as amended, on the ground of insufficiency of evidence.

The antecedents as culled from the records:

Private respondents Myrna M. Garcia (*Garcia*) and Custodio Mendoza Vestidas, Jr. (*Vestidas Jr.*) were charged before the CTA under an Information which reads:

That on or about November 5, 2011, or prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Myrna M. Garcia and Custodio Mendoza Vestidas, Jr. as owner/proprietress and broker of Plinth Enterprise respectively, conspiring and confederating with each other, with intent to defraud the government, did then and there willfully, unlawfully and fraudulently import into the Port of Manila, 858 cartons of 17,160 pieces of Anti-Virus Software Kaspersky Internet Security Premium 2012, subject to customs duties, by misdeclaration under Import Entry No. C-181011 and Bill of Lading No. PFCMAN1715, filed with the Bureau of Customs (BOC), covering One Forty Footer (1x40) container van shipment bearing No. KKFU7195683 which was falsely declared to contain 40 pallets/1,690 cartons of CD kit cleaner and plastic CD case, said imported items having customs duties amounting to Three Million Three Hundred Forty One Thousand Two Hundred Forty Five Pesos (Php 3,341,245) of which only the amount of One Hundred Thousand Three Hundred Sixty Two Pesos (Php100,362) was paid, in violation of the above-captioned law, and to the prejudice and damage of the Government in the amount of Three Million Two Hundred Forty Thousand Eight Hundred Eighty Three Pesos (Php3,240,883).⁴

In a hearing held on August 1, 2012, Garcia and Vestidas Jr. pleaded “Not Guilty” to the aforementioned charge. Thereafter, a preliminary conference was held on September 5, 2012 followed by the pre-trial on September 13, 2012. Both the prosecution and the defense agreed to adopt the joint stipulations of facts and issues entered in the course of the preliminary conference.

³ Various Fraudulent Practices Against Customs Revenue. - Any person who makes or attempts to make any entry of imported or exported article by means of any false or fraudulent invoice, declaration, affidavit, letter, paper or by any means of any false statement, written or verbal, or by any means of any false or fraudulent practice whatsoever, or knowingly effects any entry of goods, wares or merchandise, at less than true weight or measures thereof or upon a false classification as to quality or value, or by the payment of less than the amount legally due, or knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback or refund of duties upon the exportation of merchandise, or makes or files any affidavit abstract, record, certificate or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties on the exportation of merchandise, greater than that legally due thereon, or who shall be guilty of any willful act or omission shall, for each offence, be punished in accordance with the penalties prescribed in the preceding section.

⁴ *Rollo*, p. 31.

Thereafter, trial ensued.

The prosecution presented a number of witnesses who essentially observed⁵ the physical examination of Container Van No. KKFU 7195638 conducted⁶ by the Bureau of Customs (BOC) and explained⁷ the process of electronic filing under the Electronic to Mobile (E2M) Customs Systems of the BOC and the alleged misdeclared goods therein.

Subsequent to the presentation of witnesses, the prosecution filed its Formal Offer of Evidence on December 10, 2012.

On January 15, 2013, Garcia and Vestidas, Jr. filed their Omnibus Motion to File Demurrer to Evidence with Leave of Court to Cancel Hearing Scheduled on January 21, 2013, which was granted by the CTA. Thereafter, they filed the Demurrer to Evidence, dated January 13, 2012, claiming that the prosecution failed to prove their guilt beyond reasonable doubt for the following reasons:

- a) The pieces of documentary evidence submitted by the prosecution were inadmissible in court;
- b) The object evidence consisting of the allegedly misdeclared goods were not presented as evidence; and
- c) None of the witnesses for the prosecution made a positive identification of the two accused as the ones responsible for the supposed misdeclaration.

Despite opposition, the CTA dismissed the case against Garcia and Vestidas Jr. in its March 26, 2013 Resolution, for failure of the prosecution to establish their guilt beyond reasonable doubt.

According to the CTA, “no proof whatsoever was presented by the prosecution showing that the certified true copies of the public documents offered in evidence against both accused were in fact issued by the legal custodians.”⁸ It cited Section 26, Rule 132 of the Revised Rules of Court, which provides that “when the original of a document is a public record, it

⁵ Rhoderick L. Yuchongco, X-Ray Inspector Bureau of Customs.

⁶ Jose A. Saromo, Customs Operations Officer III, Bureau of Customs.

⁷ Nomie V. Gonzales, Chief of the Systems Management Division, Bureau of Customs.

⁸ *Rollo*, p. 41.

should not generally be removed from the office or place in which it is kept.”⁹ As stated in Section 7, Rule 130,¹⁰ its contents may be proven using secondary evidence and such evidence may pertain to the certified true copy of the original document issued by the public officer in custody thereof. Hence, the CTA wrote that the certified true copies of the public documents offered in evidence should have been presented in court.

Anent its offer of private documents,¹¹ the prosecution likewise failed to comply with Section 27, Rule 132 of the Rules of Court, which reads, “[a]n authorized public record of a private document may be proved by the original record, or by a copy thereof, attested by the legal custodian of the record, with an appropriate certificate that such officer has the custody.” Considering that the private documents were submitted and filed with the BOC, the same became part of public records. Again, the records show that the prosecution failed to present the certified true copies of the documents.

The CTA noted that, in its Opposition to the Demurrer, the prosecution even admitted that none of their witnesses ever positively identified the accused in open court and that the alleged misdeclared goods were not competently and properly identified in court by any of the prosecution witnesses.

The prosecution filed its motion for reconsideration, but it was denied by the CTA in its May 15, 2013 Resolution, stressing, among others, that to grant it would place the accused in double jeopardy.¹²

On July 24, 2013, the Run After the Smugglers (RATS) Group, Revenue Collection Monitoring Group (RCMG), as counsel for the BOC, received a copy of the July 15, 2013 Resolution of the CTA ordering the entry of judgment in the case.

Hence, this petition for certiorari, ascribing grave abuse of discretion on the part of the CTA when it ruled that: 1) the pieces of documentary evidence submitted by the prosecution were inadmissible in evidence; 2) the object evidence consisting of the alleged misdeclared goods were not presented as evidence; and 3) the witnesses failed to positively identify the accused as responsible for the misdeclaration of goods.

⁹ Id.

¹⁰ When the original of document is in the custody of public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof.

¹¹ Certified True Copy of Import Entry No. C-181011, Certified True Copy of Bill of Lading PFCFMAN1715 and Certified True Copy of Invoice No. 309213.

¹² *Rollo*, pp. 62-64.

The Court agrees with the disposition of the CTA.

At the outset, it should be noted that the **petition** was filed **beyond the reglementary period** for the filing thereof under Rule 65. The petition itself stated that a copy of the May 15, 2013 Resolution was received by the BOC two (2) days after its promulgation, or on May 17, 2013. Nonetheless, the RATS was only alerted by the developments in the case on July 24, 2013, when Atty. Danilo M. Campos Jr. (*Atty. Campos*) received the July 15, 2013 Resolution of the CTA ordering the entry of judgment in the case, considering that no appeal was taken by any of the parties. According to Atty. Campos, it was only on that occasion when he discovered the May 15, 2013 Resolution of the CTA. Thus, it was prayed that the petition be given due course despite its late filing.

This belated filing cannot be countenanced by the Court.

Section 4, Rule 65 of the 1997 Rules of Civil Procedure is explicit in stating that *certiorari* should be instituted within a period of 60 days from notice of the judgment, order or resolution sought to be assailed. The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.¹³ While there are recognized exceptions¹⁴ to such strict observance, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.¹⁵

In the case at bench, no convincing justification for the belated filing of the petition was advanced to warrant the relaxation of the Rules. Notably, the records show that **the petition was filed** only on August 12, 2013, or **almost a month late from the due date** which fell on July 16, 2013. To excuse this grave procedural lapse will not only be unfair to the other party, but it will also sanction a seeming rudimentary attempt to circumvent standing rules of procedure. Suffice it to say, the reasons proffered by the petitioner do not carry even a tinge of merit that would deserve leniency.

¹³ *Republic v. St. Vincent de Paul Colleges, Inc.*, G.R. No. 192908, August 22, 2012, 678 SCRA 738, citing *Labao v. Flores*, G.R. No. 187984, November 15, 2010, 634 SCRA 723.

¹⁴ (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances.

¹⁵ *Supra* note 13.

The late filing of the petition was borne out of the petitioner's failure to monitor incoming court processes that needed to be addressed by the office. Clearly, this is an admission of inefficiency, if not lack of zeal, on the part of an office tasked to effectively curb smuggling activities which rob the government of millions of revenue every year.

The display of patent violations of even the elementary rules leads the Court to suspect that the case against Garcia and Vestidas Jr. was **doomed by design** from the start. The failure to present the certified true copies of documentary evidence; the failure to competently and properly identify the misdeclared goods; the failure to identify the accused in court; and, worse, the failure to file this petition on time challenging a judgment of acquittal, are tell-tale signs of a reluctant and subdued attitude in pursuing the case. This stance taken by the lawyers in government service rouses the Court's vigilance against inefficiency in the administration of justice. Verily, the lawyers representing the offices under the executive branch should be reminded that they still remain as officers of the court from whom a high sense of competence and fervor is expected. The Court will not close its eyes to this sense of apathy in RATS lawyers, lest the government's goal of revenue enhancement continues to suffer the blows of smuggling and similar activities.

Even the error committed by the RATS in filing a motion for reconsideration with the CTA displays gross ignorance as to the effects of an acquittal in a criminal case and the constitutional proscription on double jeopardy. Had the RATS been eager and keen in prosecuting the respondents, it would have, in the first place, presented its evidence with the CTA in strict compliance with the Rules.

In any case, even if the Court decides to suspend the rules and permit this recourse, the end result would remain the same. While a judgment of acquittal in a criminal case may be assailed in a petition for certiorari under Rule 65 of the Rules of Court, it must be shown that there was grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process. In this case, a perusal of the challenged resolutions of the CTA does not disclose any indication of grave abuse of discretion on its part or denial of due process. The records are replete with indicators that the petitioner actively participated during the trial and, in fact, presented its offer of evidence and opposed the demurrer.

Grave abuse of discretion is defined as capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in

contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.¹⁶ Here, the subject resolutions of the CTA have been issued in accordance with the rules on evidence and existing jurisprudence.


On a final note, the Court deems it proper to remind the lawyers in the Bureau of Customs that the canons embodied in the Code of Professional Responsibility equally apply to lawyers in government service in the discharge of their official tasks.¹⁷ Thus, RATS lawyers should exert every effort and consider it their duty to assist in the speedy and efficient administration of justice.¹⁸

WHEREFORE, the petition is **DISMISSED** and the assailed March 26, 2013 and May 15, 2013 Resolutions of the Court of Tax Appeals are **AFFIRMED**.

The Office of the Ombudsman is hereby ordered to conduct an investigation for possible criminal or administrative offenses committed by the Run After the Smugglers (RATS) Group, Revenue Collection Monitoring Group (RCMG), Bureau of Customs, relative to the filing and handling of the subject complaint for violations of the Tariff and Customs Code of the Philippines.

Let copies of this resolution be furnished the Office of the President, the Secretary of Finance, the Collector of Customs, and the Office of the Ombudsman for their guidance and appropriate action.

SO ORDERED.

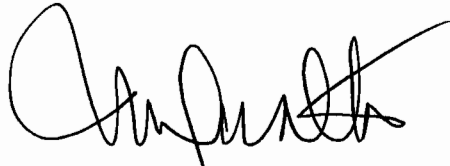


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

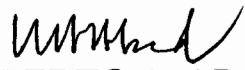
¹⁶ *De Vera v. De Vera*, G.R. No. 172832, April 7, 2009, 584 SCRA 506, 515.

¹⁷ Canon 6, Chapter I, Code of Professional Responsibility.

¹⁸ Canon 12, Chapter III, Code of Professional Responsibility.




DIOSDADO M. PERALTA
Associate Justice



ROBERTO A. ABAD
Associate Justice



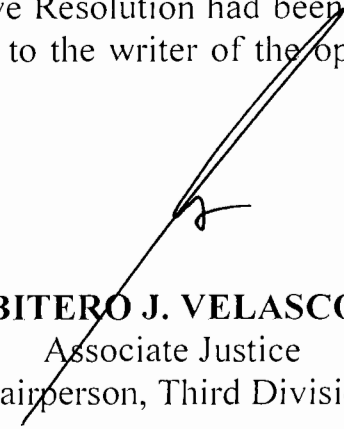
JOSE CATRAL MENDOZA
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

A T T E S T A T I O N


I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice