

SECOND DIVISION

[G.R. NOS. 111202-05, January 31, 2006]

COMMISSIONER OF CUSTOMS, PETITIONER VS. THE COURT OF APPEALS; HONORABLE ARSENIO M. GONONG, PRESIDING JUDGE REGIONAL TRIAL COURT, MANILA, BRANCH 8; HONORABLE MAURO T. ALLARDE, PRESIDING JUDGE, REGIONAL TRIAL COURT KALOOKAN CITY, BRANCH 123; AMADO SEVILLA AND ANTONIO VELASCO, SPECIAL SHERIFFS OF MANILA; JOVENAL SALAYON, SPECIAL SHERIFF OF KALOOKAN CITY, DIONISIO J. CAMANGON, EX-DEPUTY SHERIFF OF MANILA AND CESAR S. URBINO, SR., DOING BUSINESS UNDER THE NAME AND STYLE DURAPROOF SERVICES, RESPONDENTS

D E C I S I O N

AZCUNA, J.:

These Petitions for Certiorari and Prohibition, with Prayers for a Writ of Preliminary Injunction and/or Temporary Restraining Order, are the culmination of several court cases wherein several resolutions and decisions are sought to be annulled. Petitioner Commissioner of Customs specifically assails the following:

- A) Decision of the Regional Trial Court (RTC) of Manila dated February 18, 1991 in Civil Case No. 89-51451;
- B) Order of the RTC of Kalookan dated May 28, 1991 in Special Civil Case No. C-234;
- C) Resolution of the Court of Appeals (CA) dated March 6, 1992 in CA-G.R. SP No.24669;
- D) Resolution of the CA dated August 6, 1992 in CA-G.R. SP No. 28387;
- E) Resolution of the CA dated November 10, 1992 in CA-G.R. SP No. 29317;
- F) Resolution of the CA dated May 31, 1993 in CA-G.R. No. CV-32746; and
- G) Decision of the CA dated July 19, 1993 in the consolidated petitions of CA-G.R.

Petitioner also seeks to prohibit the CA and the RTC of Kalookan^[1] from further acting in CA-G.R. CV No. 32746 and Civil Case No. 234, respectively.

The whole controversy revolves around a vessel and its cargo. On January 7, 1989, the vessel M/V "Star Ace," coming from Singapore laden with cargo, entered the Port of San Fernando, La Union (SFLU) for needed repairs. The vessel and the cargo had an appraised value, at that time, of more or less Two Hundred Million Pesos (P200,000,000). When the Bureau of Customs later became suspicious that the vessel's real purpose in docking was to smuggle its cargo into the country, seizure proceedings were instituted under S.I. Nos. 02-89 and 03-89 and, subsequently, two Warrants of Seizure and Detention were issued for the vessel and its cargo.

Respondent Cesar S. Urbino, Sr., does not own the vessel or any of its cargo but claimed a preferred maritime lien under a Salvage Agreement dated June 8, 1989. To protect his claim, Urbino initially filed two motions in the seizure and detention cases: a Motion to Dismiss and a Motion to Lift Warrant of Seizure and Detention.^[2] Apparently not content with his administrative remedies, Urbino sought relief with the regular courts by filing a case for Prohibition, Mandamus and Damages before the RTC of SFLU^[3] on July 26, 1989, seeking to restrain the District Collector of Customs from interfering with his salvage operation. The case was docketed as Civil Case No. 89-4267. On January 31, 1991 the RTC of SFLU dismissed the case for lack of jurisdiction because of the pending seizure and detention cases. Urbino then elevated the matter to the CA where it was docketed as CA-G.R. CV No. 32746. The Commissioner of Customs, in response, filed a Motion to Suspend Proceedings, advising the CA that it intends to question the jurisdiction of the CA before this Court. The motion was denied on May 31, 1993. Hence, in this petition the Commissioner of Customs assails the Resolution "F" recited above and seeks to prohibit the CA from continuing to hear the case.

On January 9, 1990, while Civil Case No. 89-4267 was pending, Urbino filed another case for Certiorari and Mandamus with the RTC of Manila, presided by Judge Arsenio M. Gonong,^[4] this time to enforce his maritime lien. Impleaded as defendants were the Commissioner of Customs, the District Collector of Customs, the owners of the vessel and cargo, Vlason Enterprises, Singkong Trading Company, Banco do Brazil, Dusit International Company Incorporated, Thai-Nam Enterprises Limited, Thai-United Trading Company Incorporated and Omega Sea Transport Company, and the vessel M/V "Star Ace." This case was docketed as Civil Case No. 89-51451. The Office of the Solicitor General filed a Motion to Dismiss on the ground that a similar case was pending with the RTC of SFLU. The Motion to Dismiss was granted on July 2, 1990, but only insofar as the Commissioner of Customs and the District Collector were concerned. The RTC of Manila proceeded to hear the case against the other parties and received evidence ex parte. The RTC of Manila later rendered a decision on February 18, 1991 finding in favor of Urbino (assailed Decision "A" recited above).

Thereafter, on March 13, 1991, a writ of execution was issued by the RTC of Manila. Respondent Camangon was appointed as Special Sheriff to execute the decision and he issued a notice of levy and sale against the vessel and its cargo. The Commissioner of Customs, upon learning of the notice of levy and sale, filed with the RTC of Manila a motion to recall the writ, but before it could be acted upon, Camangon had auctioned off the vessel and the cargo to Urbino for One Hundred and Twenty Million Pesos (P120,000,000). The following day, Judge Gonong issued an order commanding Sheriff Camangon to cease and desist from implementing the writ. Despite the order, Camangon issued a Certificate of Sale in favor of Urbino. A week later, Judge Gonong issued another order recalling the writ of execution. Both cease and desist and recall orders of Judge Gonong were elevated by Urbino to the CA on April 12, 1991 where it was docketed as CA-G.R. SP No. 24669. On April 26, 1991, the CA issued a Temporary Restraining Order (TRO) enjoining the RTC of Manila from enforcing its cease and desist and recall orders. The TRO was eventually substituted by a writ of preliminary injunction. A motion to lift the injunction was filed by the Commissioner of Customs but it was denied. Hence, in this petition the Commissioner of Customs assails Resolution "C" recited above.

On May 8, 1991, Urbino attempted to enforce the RTC of Manila's decision and the Certificate of Sale against the Bureau of Customs by filing a third case, a Petition for Certiorari, Prohibition and Mandamus with the RTC of Kaloocan.^[5] The case was docketed as Civil Case No. 234. On May 28, 1991, the RTC of Kaloocan ordered the issuance of a writ of preliminary injunction to enjoin the Philippine Ports Authority and the Bureau of Customs from interfering with the relocation of the vessel and its cargo by Urbino (assailed Order "B" recited above).

Meanwhile, on June 5, 1992, Camangon filed his Sheriff's Return with the Clerk of Court. On June 26, 1992, the Executive Judge for the RTC of Manila, Judge Bernardo P. Pardo,^[6] having been informed of the circumstances of the sale, issued an order nullifying the report and all proceedings taken in connection therewith. With this order Urbino filed his fourth case with the CA on July 15, 1992, a Petition for Certiorari, Prohibition and Mandamus against Judge Pardo. This became CA-G.R. SP No. 28387. The CA issued a Resolution on August 6, 1992 granting the TRO against the Executive Judge to enjoin the implementation of his June 26, 1992 Order. Hence, in this petition the Commissioner of Customs assails Resolution "D" recited above.

Going back to the seizure and detention proceedings, the decision of the District Collector of Customs was to forfeit the vessel and cargo in favor of the Government. This decision was affirmed by the Commissioner of Customs. Three appeals were then filed with the Court of Tax Appeals (CTA) by different parties, excluding Urbino, who claimed an interest in the vessel and cargo. These three cases were docketed as CTA Case No. 4492, CTA Case No. 4494 and CTA Case No. 4500. Urbino filed his own case, CTA Case No. 4497, but it was dismissed for want of capacity to sue. He, however, was allowed to intervene in CTA Case No. 4500. On October 5, 1992, the CTA issued an order authorizing the Commissioner of Customs to assign customs police and guards around the vessel and to

conduct an inventory of the cargo. In response, on November 3, 1992, Urbino filed a fifth Petition for Certiorari and Prohibition with the CA to assail the order as well as the jurisdiction of the Presiding Judge and Associate Judges of the CTA in the three cases. That case was docketed as CA G.R. SP No. 29317. On November 10, 1992, the CA issued a Resolution reminding the parties that the vessel is under the control of the appellate court in CA-G.R. SP No. 24669 (assailed Resolution "E" recited above).

CA-G.R. SP Nos. 24669, 28387 and 29317 were later consolidated and the CA issued a joint Decision in July 19, 1993 nullifying and setting aside: 1) the Order recalling the writ of execution by Judge Gonong of the the RTC of Manila; 2) the Order of Executive Judge Pardo of the RTC of Manila nullifying the Sheriff's Report and all proceedings connected therewith; and 3) the October 19, 1993 Order of the CTA, on the ground of lack of jurisdiction. Hence, in these petitions, which have been consolidated, the Commissioner of Customs assails Decision "G" recited above.

For purposes of deciding these petitions, the assailed Decisions and Resolutions will be divided into three groups:

1. The Resolution of the CA dated May 31, 1993 in CA-G.R. No. CV-32746 with the additional prayer to enjoin the CA from deciding the said case.
2. The Order of the RTC of Kalookan dated May 28, 1991 in Special Civil Case No. C-234 with the additional prayer to enjoin the RTC of Kalookan from proceeding with said case.
3. The Decision of the RTC of Manila dated February 18, 1991 in Civil Case No. 89-51451, the Resolutions of the CA dated March 6, 1992, August 6, 1992, November 10, 1992 and the Decision of the CA dated July 19, 1993 in the consolidated petitions CA-G.R. SP Nos. 24669, 28387 and 29317.

First Group

The Commissioner of Customs seeks to nullify the Resolution of the CA dated May 31, 1993 denying the Motion to Suspend Proceedings and to prohibit the CA from further proceeding in CA-G.R. No. CV-32746 for lack of jurisdiction. This issue can be easily disposed of as it appears that the petition has become moot and academic, with the CA having terminated CA-G.R. No. CV-32746 by rendering its Decision on May 13, 2002 upholding the dismissal of the case by the RTC of SFLU for lack of jurisdiction, a finding that sustains the position of the Commissioner of Customs. This decision became final and entry of judgment was made on June 14, 2002.^[7]

Second Group

The Court now proceeds to consider the Order granting an injunction dated May 28, 1991 in Civil Case No. C-234 issued by the RTC of Kalookan. The Commissioner of Customs

seeks its nullification and to prohibit the RTC of Kalookan from further proceeding with the case.

The RTC of Kalookan issued the Order against the Philippine Ports Authority and Bureau of Customs solely on the basis of Urbino's alleged ownership over the vessel by virtue of his certificate of sale. By this the RTC of Kalookan committed a serious and reversible error in interfering with the jurisdiction of customs authorities and should have dismissed the petition outright. In *Mison v. Natividad*,^[8] this Court held that the exclusive jurisdiction of the Collector of Customs cannot be interfered with by regular courts even upon allegations of ownership.

To summarize the facts in that case, a warrant of seizure and detention was issued against therein plaintiff over a number of vehicles found in his residence for violation of customs laws. Plaintiff then filed a complaint before the RTC of Pampanga alleging that he is the registered owner of certain vehicles which the Bureau of Customs are threatening to seize and praying that the latter be enjoined from doing so. The RTC of Pampanga issued a TRO and eventually, thereafter, substituted it with a writ of preliminary injunction. This Court found that the proceedings conducted by the trial court were null and void as it had no jurisdiction over the res subject of the warrant of seizure and detention, holding that:

A warrant of seizure and detention having already been issued, presumably in the regular course of official duty, the Regional Trial Court of Pampanga was indisputably precluded from interfering in said proceedings. That in his complaint in Civil Case No. 8109 private respondent alleges ownership over several vehicles which are legally registered in his name, having paid all the taxes and corresponding licenses incident thereto, neither divests the Collector of Customs of such jurisdiction nor confers upon said trial court regular jurisdiction over the case. Ownership of goods or the legality of its acquisition can be raised as defenses in a seizure proceeding; if this were not so, the procedure carefully delineated by law for seizure and forfeiture cases may easily be thwarted and set to naught by scheming parties. Even the illegality of the warrant of seizure and detention cannot justify the trial court's interference with the Collector's jurisdiction. In the first place, there is a distinction between the existence of the Collector's power to issue it and the regularity of the proceeding taken under such power. In the second place, even if there be such an irregularity in the latter, the Regional Trial Court does not have the competence to review, modify or reverse whatever conclusions may result therefrom x x x.

The facts in this case are like those in that case. Urbino claimed to be the owner of the vessel and he sought to restrain the PPA and the Bureau of Customs from interfering with his rights as owner. His remedy, therefore, was not with the RTC but with the CTA where the seizure and detention cases are now pending and where he was already allowed to intervene.

Moreover, this Court, on numerous occasions, cautioned judges in their issuance of temporary restraining orders and writs of preliminary injunction against the Collector of Customs based on the principle enunciated in *Mison v. Natividad* and has issued Administrative Circular No. 7-99 to carry out this policy.^[9] This Court again reminds all concerned that the rule is clear: the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceedings and trial courts are precluded from assuming cognizance over such matters even through petitions for certiorari, prohibition or mandamus.

Third Group

The Decision of the RTC of Manila dated February 18, 1991 has the following dispositive portion:

WHEREFORE, IN VIEW OF THE FOREGOING, based on the allegations, prayer and evidence adduced, both testimonial and documentary, the Court is convinced, that, indeed, defendants/respondents are liable to plaintiff/petitioner in the amount prayed for in the petition for which [it] renders judgment as follows:

1. Respondent M/V Star Ace, represented by Capt. Nahum Rada, Relief Captain of the vessel and Omega Sea Transport Company, Inc., represented by Frank Cadacio is ordered to refrain from alienating or transfer[r]ing the vessel M/V Star Ace to any third parties;
2. Singko Trading Company to pay the following:
 - a. Taxes due the Government;
 - b. Salvage fees on the vessel in the amount of \$1,000,000.00 based on the Lloyd's Standard Form of Salvage Agreement;
 - c. Preservation, securing and guarding fees on the vessel in the amount of \$225,000.00;
 - d. Salaries of the crew from August 16, 1989 to December, in the amount of \$43,000.00 and unpaid salaries from January 1990 up to the present;
 - e. Attorney's fees in the amount of P656,000.00;
3. Vlazon Enterprises to pay plaintiff in the amount of P3,000,000.00 for damages;
4. Banco do Brazil to pay plaintiff in the amount of \$300,000.00 in damages; and finally,
5. Costs of suit.

SO ORDERED.

On the other hand, the CA Resolutions are similar orders for the issuance of a writ of preliminary injunction to enjoin Judge Gonong and Judge Pardo from enforcing their recall and nullification orders and the CTA from exercising jurisdiction over the case, to preserve the status quo pending resolution of the three petitions.

Finally, the Decision of the CA dated July 19, 1993 disposed of all three petitions in favor of Urbino, and has the following dispositive portion:

ACCORDINGLY, in view of the foregoing disquisitions, all the three (3) consolidated petitions for certiorari are hereby GRANTED.

THE assailed Order of respondent Judge Arsenio Gonong of the Regional Trial Court of Manila, Branch 8, dated, April 5, 1991, in the first assailed petition for certiorari (CA-G.R. SP No. 24669); the assailed Order of Judge Bernardo Pardo, Executive Judge of the Regional Trial Court of Manila, Branch 8, dated July 6, 1992, in the second petition for certiorari (CA-G.R. SP No. 28387); and Finally, the assailed order or Resolution en banc of the respondent Court of Tax Appeals[,] Judges Ernesto Acosta, Ramon de Veyra and Manuel Gruba, under date of October 5, 1992, in the third petition for certiorari (CA-G.R. SP No. 29317) are all hereby NULLIFIED and SET ASIDE thereby giving way to the entire decision dated February 18, 1991 of the respondent Regional Trial Court of Manila, Branch 8, in Civil Case No. 89-51451 which remains valid, final and executory, if not yet wholly executed.

THE writ of preliminary injunction heretofore issued by this Court on March 6, 1992 and reiterated on July 22, 1992 and this date against the named respondents specified in the dispositive portion of the judgment of the respondent Regional Trial Court of Manila, Branch 8, in the first petition for certiorari, which remains valid, existing and enforceable, is hereby MADE PERMANENT without prejudice (1) to the petitioner's remaining unpaid obligations to herein party-intervenor in accordance with the Compromise Agreement or in connection with the decision of the respondent lower court in CA-G.R. SP No. 24669 and (2) to the government, in relation to the forthcoming decision of the respondent Court of Tax Appeals on the amount of taxes, charges, assessments or obligations that are due, as totally secured and fully guaranteed payment by petitioner's bond, subject to relevant rulings of the Department of Finance and other prevailing laws and jurisprudence.

We make no pronouncement as to costs.

SO ORDERED.

The Court rules in favor of the Commissioner of Customs.

First of all, the Court finds the decision of the RTC of Manila, in so far as it relates to the vessel M/V "Star Ace," to be void as jurisdiction was never acquired over the vessel.^[10] In filing the case, Urbino had impleaded the vessel as a defendant to enforce his alleged maritime lien. This meant that he brought an action *in rem* under the Code of Commerce under which the vessel may be attached and sold.^[11] However, the basic operative fact for the institution and perfection of proceedings *in rem* is the actual or constructive possession of the *res* by the tribunal empowered by law to conduct the proceedings.^[12] This means that to acquire jurisdiction over the vessel, as a defendant, the trial court must have obtained either actual or constructive possession over it. Neither was accomplished by the RTC of Manila.

In his comment to the petition, Urbino plainly stated that petitioner has actual[sic] physical custody not only of the goods and/or cargo but the subject vessel, M/V Star Ace, as well."^[13] This is clearly an admission that the RTC of Manila did not have jurisdiction over the *res*. While Urbino contends that the Commissioner of Customs' custody was illegal, such fact, even if true, does not deprive the Commissioner of Customs of jurisdiction thereon. This is a question that ought to be resolved in the seizure and forfeiture cases, which are now pending with the CTA, and not by the regular courts as a collateral matter to enforce his lien. By simply filing a case *in rem* against the vessel, despite its being in the custody of customs officials, Urbino has circumvented the rule that regular trial courts are devoid of any competence to pass upon the validity or regularity of seizure and forfeiture proceedings conducted in the Bureau of Customs, on his mere assertion that the administrative proceedings were a nullity.^[14]

On the other hand, the Bureau of Customs had acquired jurisdiction over the *res* ahead and to the exclusion of the RTC of Manila. The forfeiture proceedings conducted by the Bureau of Customs are in the nature of proceedings *in rem*^[15] and jurisdiction was obtained from the moment the vessel entered the SFLU port. Moreover, there is no question that forfeiture proceedings were instituted and the vessel was seized even before the filing of the RTC of Manila case.

The Court is aware that Urbino seeks to enforce a maritime lien and, because of its nature, it is equivalent to an attachment from the time of its existence.^[16] Nevertheless, despite his lien's constructive attachment, Urbino still cannot claim an advantage as his lien only came about after the warrant of seizure and detention was issued and implemented. The Salvage Agreement, upon which Urbino based his lien, was entered into on June 8, 1989. The warrants of seizure and detention, on the other hand, were issued on January 19 and 20, 1989. And to remove further doubts that the forfeiture case takes precedence over the RTC of Manila case, it should be noted that forfeiture retroacts to the date of the commission of the offense, in this case the day the vessel entered the country.^[17] A maritime lien, in contrast, relates back to the period when it first attached,^[18] in this case the earliest retroactive date can only be the date of the Salvage Agreement. Thus, when the vessel and its cargo are ordered forfeited, the effect will retroact to the moment the vessel entered

Philippine waters.

Accordingly, the RTC of Manila decision never attained finality as to the defendant vessel, inasmuch as no jurisdiction was acquired over it, and the decision cannot be binding and the writ of execution issued in connection therewith is null and void.

Moreover, even assuming that execution can be made against the vessel and its cargo, as goods and chattels to satisfy the liabilities of the other defendants who have an interest therein, the RTC of Manila may not execute its decision against them while, as found by this Court, these are under the proper and lawful custody of the Bureau of Customs.^[19] This is especially true when, in case of finality of the order of forfeiture, the execution cannot anymore cover the vessel and cargo as ownership of the Government will retroact to the date of entry of the vessel into Philippine waters.

As regards the jurisdiction of the CTA, the CA was clearly in error when it issued an injunction against it from deciding the forfeiture case on the basis that it interfered with the subject of ownership over the vessel which was, according to the CA, beyond the jurisdiction of the CTA. Firstly, the execution of the Decision against the vessel and cargo, as aforesaid, was a nullity and therefore the sale of the vessel was invalid. Without a valid certificate of sale, there can be no claim of ownership which Urbino can present against the Government. Secondly, as previously stated, allegations of ownership neither divest the Collector of Customs of such jurisdiction nor confer upon the trial court jurisdiction over the case. Ownership of goods or the legality of its acquisition can be raised as defenses in a seizure proceeding.^[20] The actions of the Collectors of Customs are appealable to the Commissioner of Customs, whose decision, in turn, is subject to the exclusive appellate jurisdiction of the CTA.^[21] Clearly, issues of ownership over goods in the custody of custom officials are within the power of the CTA to determine.

WHEREFORE, the consolidated petitions are **GRANTED**. The Decision of the Regional Trial Court of Manila dated February 18, 1991 in Civil Case No. 89-51451, insofar as it affects the vessel M/V "Star Ace," the Order of the Regional Trial Court of Kalookan dated May 28, 1991 in Special Civil Case No. C-234, the Resolution of the Court of Appeals dated March 6, 1992 in CA-G.R. SP No. 24669, the Resolution of the Court of Appeals dated August 6, 1992 in CA-G.R. SP No. 28387, the Resolution of the Court of Appeals dated November 10, 1992 in CA-G.R. SP No. 29317 and the Decision of the Court of Appeals dated July 19, 1993 in the consolidated petitions in CA-G.R. SP Nos. 24669, 28387 and 29317 are all **SET ASIDE**. The Regional Trial Court of Kalookan is enjoined from further acting in Special Civil Case No. C-234. The Order of respondent Judge Arsenio M. Gonong dated April 5, 1991 and the Order of then Judge Bernardo P. Pardo dated June 26, 1992 are **REINSTATED**. The Court of Tax Appeals is ordered to proceed with CTA Case No. 4492, CTA Case No. 4494 and CTA Case No. 4500. No pronouncement as to costs.

SO ORDERED.

[1] Branch 123.

[2] Both were denied by the District Collector of Customs.

[3] Branch 29.

[4] Branch 8.

[5] Branch 123.

[6] *Subsequently, a Member of this Court and now retired.*

[7] CA-G.R. CV No. 32746, Rollo, pp. 309-316 & 372.

[8] G.R. No. 82586, September 11, 1992, 213 SCRA 734.

[9] Violation of this Circular has even led to the dismissal from service of judges, see *Zuno v. Cabredo*, A.M. No. RTJ-03-1779, April 30, 2003, 402 SCRA 75.

[10] Previous decisions of this Court have set aside the same judgment in favor of two other defendants to the case, namely: *Vlason Enterprises Corp.* (G.R. Nos. 121662-64, July 6, 1999) and *Banco do Brasil* (G.R. Nos. 121576-78, June 16, 2000).

[11] *Ivancich v. Odlin, et al.*, 1 Phil. 284 (1902).

[12] *Commissioner of Customs v. Makasiar*, G.R. No. 79307, August 29, 1989, 177 SCRA 27.

[13] Rollo, p. 368.

[14] *Republic v. Bocar*, L-35260, September 4, 1979, 93 SCRA 78.

[15] *Vierneza v. Commissioner of Customs*, L-24348, July 30, 1968, 24 SCRA 394.

[16] *Quasha Asperilla Ancheta Valmonte Pena & Marcos v. Juan*, L-49140, November 19, 1982, 118 SCRA 505.

[17] *Carrara Marble Philippines, Inc. v. Commissioner of Customs*, G.R. No. 129680, September 1, 1999, 313 SCRA 453.

[18] *Philippine National Bank v. Court of Appeals*, G.R. No. 128661, August 8, 2000, 337 SCRA 381.

[19] *Virata v. Aquino*, L-35027, September 10, 1973, 53 SCRA 24.

[20] *Mison v. Natividad*, *supra*, note 8.

[21] *Bureau of Customs v. Ogario*, G.R. No. 138081, March 30, 2000, 329 SCRA 289.