Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

AGRIEX CO., LTD.,
Petitioner,

-versus-

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.

G.R. No. 158150

Present:

VELASCO, JR.,*
LEONARDO-DE CASTRO,**
Acting Chairperson,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

SEP 10 2014

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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

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* In lieu of Chief Justice Maria Lourdes P.A. Sereno, who is on Wellness Leave, per Special Order No. 1772.

** Per Special Order No. 1771 dated August 28, 2014

[1] *Rollo*, pp. 29-39; penned by Associate Justice Mercedes Gozo-Dadole (retired) with Associate Justice B.A. Adefuin-De La Cruz (retired) and Associate Justice Mariano C. Del Castillo (now a Member of this Court), concurring.

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. Heraldo, 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.

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2 CA *rollo*, p. 23.
3 Id. at 26-27.
4 Id. at 30.
5 Id. at 31.
6 Id. at 34-39.

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

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7 Id. at 33.
8 Id. at 40.
9 Id. at 41.
10 Id. at 42-47.
11 Id. at 56-65.
12 Id. at 22.
13 Id. at 66-68.

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.

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14 Id. at 4-21.
15 *Rollo,* p. 47.
16 CA *rollo,* pp. 100-103.
17 *Rollo,* p. 44.
18 CA *rollo,* pp. 130-131.
19 Id. at 118-119.
20 Id. at 118.

> 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 ₱116,640,000.00 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

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21 Id. at 122.
22 Id. at 113-114.
23 Id. at 124-125.
24 Id. at 167.
25 Id. at 145.
26 Id. at 169-170.

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.
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> **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.

3. THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER'S REMEDY IS AN APPEAL TO THE COURT OF TAX APPEALS.[29]

We note that a few days after the petitioner instituted the *certiorari* proceedings in the CA on November 12, 2001, Commissioner Villanueva countermanded Collector Bibit's October 18, 2001 Notice of Sale through his November 19, 2001 memorandum. Thereupon, the October 18, 2001 Notice of Sale could no longer be enforced, thereby rendering the resolution of the validity of the October 18, 2001 Notice of Sale moot and academic. A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value.[30]

As matters stand, WSD No. 2001-13A issued against the MV Hung Yen was quashed by the October 26, 2001 order of Collector Bibit; while

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27 *Rollo*, pp. 36-38.
28 Id. at 41.
29 Id. at 17.
30 *Funa v. Ermita*, G.R. No. 184740, February 11, 2010, 612 SCRA 308, 319.

WSD No. 2001-13 issued against the 20,000 bags of rice consigned to R&C Agro Trade had been effectively lifted by Commissioner Villanueva's Consolidated Order dated February 4, 2002 following R&C Agro Trade's payment of the settlement value of ₱8,400,000.00.

The pending seizure proceedings under WSD No. 2001-13B of the 180,000 bags of rice remained, and became the basis for the issuance of the subsequent notice of sale by Collector Bartolome. Consequently, the controversy on the jurisdiction of the Bureau of Customs over the seizure and forfeiture of goods and articles entering the free port area lingers and requires the Court's intervention.

Ruling

The appeal lacks merit.

The Subic Special Economic Zone, or the Subic Bay Freeport, was established pursuant to Section 12 of Republic Act No. 7227 (*The Bases Conversion and Development Act of 1992*), to be operated and managed as a special customs territory. On the other hand, the Subic Bay Metropolitan Authority (SBMA) was created under Section 13 of RA No. 7227 to serve "as an operating and implementing arm of the Conversion Authority" within the SBF.

The concept of a Freeport as a separate customs territory was described during Senator Enrile's interpellations during the sponsorship of the bill that later on became RA No. 7227, to wit:

> Senator Enrile: Mr. President, I think we are talking here of sovereign concepts, not territorial concepts. The concept that we are supposed to craft here is to carve out a portion of our terrestrial domain as well as our adjacent waters and say to the world: "Well, you can set up your factories in this area that we are circumscribing, and bringing your equipment and bringing your goods, you are not subject to any taxes and duties because you are not within the customs jurisdiction of the Republic of the Philippines, whether you store the goods or only for purposes of transshipment or whether you make them into finished products again to be reexported to other lands."
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> x x x x
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> **My understanding of a "free port" is, we are in effect carving out a part of our territory and make it as if it were foreign territory for purposes of our customs laws, and that people can come, bring their goods, store them there and bring them out again, as long as they do not come into the domestic commerce of the Republic.**

> We do not really care whether these goods are stored here. The only thing that we care is for our people to have an employment because of the entry of these goods that are being discharged, warehoused and reloaded into the ships so that they can be exported. That will generate employment for us. For as long as that is done, we are saying, in effect, that we have the least contact with our tariff and customs laws and our tax laws. Therefore, we consider these goods as outside of the customs jurisdiction of the Republic of the Philippines as yet, until we draw them from this territory and bring them inside our domestic commerce. In which case, they have to pass through our customs gate. I thought we are carving out this entire area and convert it into this kind of concept.[31]

On the basis of the concept, the petitioner claims that the Collector of Customs had no jurisdiction to issue WSD No. 2001-13B and the October 18, 2001 Notice of Sale concerning the 180,000 bags of Thai white rice, which had entered the SBF only for transshipment to other countries.[32] It insists that the auction sale of the 180,000 bags was null and void for failing to comply with Executive Order No. 272, which required presidential approval when the amount to be generated from the sale was at least ₱50 Million;[33] that the sale disregarded the memorandum of agreement between the Bureau of Customs and the NFA;[34] that the rice was sold at ₱785.00 per 50-kilo bag instead of ₱1,100.00, the price established by the Bureau of Agricultural Statistics;[35] and that no notice of auction sale was sent to the NFA or its accredited dealers.[36]

In contrast, the respondents sought the dismissal of the petition on the ground of lack of jurisdiction, maintaining that an appeal to the Court of Tax Appeals (CTA) was the proper remedy to assail the decision of the Commissioner of Customs, which the petitioner itself expressly recognized in its February 20, 2002 Comment vis-à-vis their Manifestation and Motion dated December 3, 2001; and that because the petitioner did not appeal to the CTA within the prescribed period, the February 4, 2002 Consolidated Order of Commissioner Villanueva became final and executory, and could no longer be the subject of review in the present proceedings.[37]

The Court declares that the Collector of Customs was authorized to institute seizure proceedings and to issue WSDs in the Subic Bay Freeport, subject to the review by the Commissioner of Customs. Accordingly, the proper remedy to question the order or resolution of the Commissioner of Customs was an appeal to the CTA, not to the CA.

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31 RECORDS, SENATE 8TH CONGRESS, SESSION (JANUARY 14, 1992), cited and quoted in *Executive Secretary v. Southwing Heavy Industries, Inc.*, G.R. Nos. 164171/164172/168741, February 20, 2006, 482 SCRA 673, 696.

32 *Rollo*, pp. 17-23.

33 Id. at 23-24.

34 Id. at 24-25.

35 Id. at 25.

36 Id.

37 Id. at 92-107.

Although RA No. 7227 is silent as to the person or entity vested with the authority to seize and forfeit or detain goods and articles entering the Subic Bay Freeport, the implementing rules and regulations (IRR) of RA No. 7227 contained the following provisions, to wit:

> Sec. 11. ***Responsibilities of the SBMA***. – Other than the powers and functions prescribed in Section 10 of these Rules, the SBMA shall have the following responsibilities:
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> x x x x
>
> f. Consistent with the Constitution, the SBMA shall have the following powers to enforce the law and these Rules in the SBF:
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> x x x x
>
> (4) **to seize articles, substances, merchandise and records considered to be in violation of the law and these Rules, and to provide for their return to the enterprise or person from whom they were seized, or their forfeiture to the SBMA**; x x x
>
> **B. Transactions with the Customs Territory**
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> x x x x
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> Sec. 52. *Seizure of Foreign Articles.* – Foreign articles withdrawn transported or taken in commercial quantities from the SBF to the Customs Territory without payment of duties and taxes, shall be subject to seizure and forfeiture proceedings pursuant to the pertinent provisions of the Tariff and Customs Code and the National Internal Revenue Code of the Philippines, without prejudice to any criminal and/or administrative actions that may be instituted against the person/persons liable/responsible therefor.
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> **C. Taxes and Fiscal Obligations**
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> x x x x
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> Sec. 60. *Search, Arrest, and Seizure by Customs Officials.* – Persons, baggage, vehicles and cargo entering or leaving the SBF are subject to search by Customs officials as a condition to enter or leave the SBF. Customs officials are authorized to examine any merchandise held by the SBF Enterprises during regular business hours.
>
> **Customs officers may seize any article found during a Customs search upon entering or leaving the SBF to be in violation of any provision of the customs laws for which a seizure is authorized, and such seizure shall be disposed of according to the customs laws.** Articles which are prohibited or excluded from the SBF under the rules and regulations of the SBMA which are found by the Customs officials during an audit, examination or check within the SBF may be seized by them and turned over to the SBMA for disposition.

> The SBMA may secure the assistance of and/or coordinate with Customs officers to arrest persons in the SBF for violations of the customs laws for which arrest is authorized concerning articles in the Customs Territory destined to the SBF or articles which have been removed from the SBF to the Customs Territory. (Bold underscoring supplied for emphasis)

Customs Administrative Order No. 4-93 (CAO 4-93), also known as the *Rules and Regulations for Customs Operations in the Subic Special Economic and Freeport Zone*, similarly provides the following:

> CHAPTER II. GENERAL PROVISIONS
>
> x x x x
>
> B. AUDIT, SEARCH, SEIZURE AND ARREST IN ZONE
>
> x x x x
>
> 3. SEIZURE
>
> **Any prohibited or excluded articles found upon search, or through any examination, audit or check of articles in the Zone by Customs may be seized by Customs for violations of Tariff and Customs Code of the Philippines as amended and disposed of in accordance with law**.[38]

Under these statutory provisions, both the SBMA and the Bureau of Customs have the power to seize and forfeit goods or articles entering the Subic Bay Freeport, except that SBMA's authority to seize and forfeit goods or articles entering the Subic Bay Freeport has been limited only to cases involving violations of RA No. 7227 or its IRR. There is no question therefore, that the authority of the Bureau of Customs is larger in scope because it covers cases concerning violations of the customs laws.

The authority of the Bureau of Customs to seize and forfeit goods and articles entering the Subic Bay Freeport does not contravene the nature of the Subic Bay Freeport as a separate customs authority. Indeed, the investors can generally and freely engage in any kind of business as well as import into and export out goods with minimum interference from the Government.[39] The Court has thus observed in *Executive Secretary v. Southwing Heavy Industries, Inc.*[40]:

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[38] CA *rollo*, p. 83.

[39] IRR of RA No. 7227 provides:

> Section 39. *Rights and Obligations*.- SBF Enterprises shall have the following rights and obligations:
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> a. To freely engage in any business, trade, manufacturing, financial or service activity, and to import and export freely all types of goods into and out of the SBF, subject to the provisions of the Act, these Rules and other regulations that may be promulgated by the SBMA; x x x

[40] Supra note 31, at 694-695.

> The Freeport was designed to ensure free flow or movement of goods and capital within a portion of the Philippine territory in order to attract investors to invest their capital in a business climate with the least governmental intervention. The concept of this zone was explained by Senator Guingona in this wise:
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> > Senator Guingona. Mr. President, the special economic zone is successful in many places, particularly Hong Kong, which is a free port. The difference between a special economic zone and an industrial estate is simply expansive in the sense that the commercial activities, including the establishment of banks, services, financial institutions, agro-industrial activities, maybe agriculture to a certain extent.
> >
> > **This delineates the activities that would have the least of government intervention, and the running of the affairs of the special economic zone would be run principally by the investors themselves, similar to a housing subdivision, where the subdivision owners elect their representatives to run the affairs of the subdivision, to set the policies, to set the guidelines.**
> >
> > **We would like to see Subic area converted into a little Hong Kong, Mr. President, where there is a hub of free port and free entry, free duties and activities to a maximum spur generation of investment and jobs.**
> >
> > While the investor is reluctant to come in the Philippines, as a rule, because of red tape and perceived delays, we envision this special economic zone to be an area where there will be minimum government interference.
> >
> > The initial outlay may not only come from the Government or the Authority as envisioned here, but from them themselves, because they would be encouraged to invest not only for the land but also for the buildings and factories. As long as they are convinced that in such an area they can do business and reap reasonable profits, then many from other parts, both local and foreign, would invest, Mr. President.

Yet, the treatment of the Subic Bay Freeport as a separate customs territory cannot completely divest the Government of its right to intervene in the operations and management of the Subic Bay Freeport, especially when patent violations of the customs and tax laws are discovered. After all, Section 602 of the Tariff and Customs Code vests exclusive original jurisdiction in the Bureau of Customs over seizure and forfeiture cases in the enforcement of the tariff and customs laws.

In this case, an examination of the shipment by the customs officials pursuant to Mission Order No. 06-2001 initially revealed no cause to hold

the release of the 180,000 bags of rice. In their September 4, 2001 After Mission Report, Atty. Enriquez and Atty. Heraldo pertinently stated:

> FINDINGS:
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> Prescinding from the foregoing factual environment, we find no reason to hold the departure of the 180,000 bags of rice and the vessel unless we could establish the falsity of the transhipment manifest of this shipment, e.g. the alleged ultimate consignees are non-existing entities or if they are existing, that they did not order for the shipment thereof. x x x
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> x x x x
>
> RECOMMENDATION:
>
> x x x x
>
> With respect to the 180,000 bags of rice allegedly for transshipment, we should expedite the verification of the ultimate consignees. Should they really exist and in fact ordered this shipment, we should allow the transshipment thereof of let it remain on board the subject vessel which will transport the same, per advise of the shipping agent, to the Free Port of Labuan Malaysia, its next foreign fort pursuant to the clearance to be issued therefor in order to allow the lawful departure of the vessel. Conversely, if after verification, the contrary is found, we should amend the Warrant to include the latter portion of the shipment in question for having been imported contrary to law or at least an attempt at importation in violation of law. x x x[41]

However, further investigation led to the discovery that the consignees of the 180,000 bags of rice in Indonesia were non-existent, and the consignee in the Fiji Islands denied being involved in the importation of rice. These findings were summarized in Commissioner Villanueva's Consolidated Order, to wit:

> x x x 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 supplied by 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 to be a solid ground to hold the remaining shipment of 180,000 bags of rice forfeited as charged. Moreover it should be stressed that during the hearing on the Motion to Quash the WSD issued against the carrying vessel, the witness who is the General Manager of Overseas Vietnam Shipping testified that that prefix BKK/PLP on the Bills of Lading stands for Bangkok/Philippines. Stated differently, if indeed the 180,000 bags of rice were for transhipment to Indonesia and Fiji Island, then why they were prefixed like the 20,000 bags of rice covered by B/L No. BKK/PLP-01? The said Bills of Lading should have been prefixed as BKK/IND for those shipments bound for

[41] CA *rollo*, pp. 37-38.

> Indonesia and BKK/FJI for those bound for Fiji Island or in any similar manner. Likewise, the TSN would bear us out that the witness for the vessel also confirmed during his testimony that there were alterations made on the Mate's Receipt of the cargo which were used as the basis in the preparation of the questionable Bills of Lading.[42]

The findings constituted sufficient probable cause, as required by Section 2535 of the Tariff and Customs Code,[43] that violations of the customs laws, particularly Section 102(k) and Section 2530, (a), (f) and (l), par. 3, 4, and 5 of the Tariff and Customs Code,[44] had been committed. For that reason, the institution of the seizure proceedings and the issuance of WSD No. 2001-13B by the Collector of Customs were well within the jurisdiction of the Bureau of Customs.

In *Subic Bay Metropolitan Authority v. Rodriguez*,[45] the Court has already recognized the exclusive jurisdiction of the Bureau of Customs and its officials over seizure cases although the articles were within the Freeport zone, holding:

> Petitioner alleges that the RTC of Olongapo City has no jurisdiction over the action for injunction and damages filed by respondents on 11 June 2002 as said action is within the exclusive original jurisdiction of the BOC pursuant to Section 602 of Republic Act No. 1937,

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42 CA *rollo*, pp. 121-122.

43 Section 2535. *Burden of Proof in Seizure and/or Forfeiture*. - In all proceedings taken for the seizure and/or forfeiture of any vessel, vehicle, aircraft, beast or articles under the provisions of the tariff and customs laws, the burden of proof shall lie upon the claimant: Provided, That probable cause shall be first shown for the institution of such proceedings and that seizure and/or forfeiture was made under the circumstances and in the manner described in the preceding sections of this Code.

44 Section 102. *Prohibited Importations*. — The importation into the Philippines of the following articles is prohibited:

x x x x

k. All other articles the importation of which is prohibited by law.

Section 2530. *Property Subject to Forfeiture Under Tariff and Customs Laws*. - Any vehicle, vessel or aircraft, cargo, article and other objects shall, under the following conditions be subjected 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:

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 entered to be used as instruments in the importation or the exportation of the former;

x x x x

1. Any article sought to be imported or exported

x x x x

(3) On the strength of a false declaration or affidavit executed by the owner, importer, exporter or consignee concerning the importation of such article;

(4) On the strength of a false invoice or other document executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article; and

(5) Through any other practice or device contrary to law by means of which such articles was entered through a customhouse to the prejudice of the government.

45 G.R. No. 160270, April 23, 2010, 619 SCRA 176.

otherwise known as the "Tariff and Customs Code of the Philippines," as amended. Section 602 provides, thus:

> Sec. 602. Functions of the Bureau.- The general duties, powers and jurisdiction of the bureau shall include:
>
> x x x x
>
> g. Exercise exclusive original jurisdiction over seizure and forfeiture cases under the tariff and customs laws.

Petitioner contends that the imported 2,000 bags of rice were in the actual physical control and possession of the BOC as early as 25 October 2001, by virtue of the BOC Subic Port Hold Order of even date, and of the BOC Warrant of Seizure and Detention dated 22 May 2002. As such, the BOC had acquired exclusive original jurisdiction over the subject shipment, to the exclusion of the RTC.

We agree with petitioner.

It is well settled that the Collector of Customs has exclusive jurisdiction over seizure and forfeiture proceedings, and regular courts cannot interfere with his exercise thereof or stifle or put it at naught. The Collector of Customs sitting in seizure and forfeiture proceedings has exclusive jurisdiction to hear and determine all questions touching on the seizure and forfeiture of dutiable goods. Regional trial courts are devoid of any competence to pass upon the validity or regularity of seizure and forfeiture proceedings conducted by the BOC and to enjoin or otherwise interfere with these proceedings. Regional trial courts are precluded from assuming cognizance over such matters even through petitions for certiorari, prohibition or mandamus.

Verily, the rule is that from the moment imported goods are actually in the possession or control of the Customs authorities, even if no warrant for seizure or detention had previously been issued by the Collector of Customs in connection with the seizure and forfeiture proceedings, the BOC acquires exclusive jurisdiction over such imported goods for the purpose of enforcing the customs laws, subject to appeal to the Court of Tax Appeals whose decisions are appealable to this Court. As we have clarified in *Commissioner of Customs v. Makasiar*, the rule that RTCs have no review powers over such proceedings is anchored upon the policy of placing no unnecessary hindrance on the government's drive, not only to prevent smuggling and other frauds upon Customs, but more importantly, to render effective and efficient the collection of import and export duties due the State, which enables the government to carry out the functions it has been instituted to perform.[46]

The issuance of the October 18, 2001 Notice of Sale was merely an incident of the seizure proceedings commenced by the Collector of Customs. Consequently, the correctness of its issuance was necessarily subsumed to the determination of the propriety of the seizure proceedings, a matter that was within the exclusive jurisdiction of the Bureau of Customs. In that

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[46] Id. at 189-191.

context, the proper recourse of the petitioner from the February 4, 2002 Consolidated Order of Commissioner Villanueva, which reviewed the November 14, 2001 action of Collector Bibit,[47] was an appeal in due course to the CTA, in accordance with Section 7(4) of RA No. 1125, as amended,[48] in relation to Section 2402 of the Tariff and Customs Code,[49] within 30 days after the receipt of the order.[50] Without the appeal having been timely filed in the CTA, the February 4, 2002 Consolidated Order became final and executory.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; **AFFIRMS** the decision promulgated on November 18, 2002 in CA-G.R. CV No. 67593; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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47 See Tariff and Customs Code, *viz*:

Section 2313. *Review by 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. x x x

48 Section 7. *Jurisdiction.* - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

x x x x

4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs

49 Section 2402. *Review by Court of Tax Appeals.* - The party aggrieved by the ruling of the Commissioner in any matter brought before him upon protest or by his action or ruling in any case of seizure may appeal to the Court of Tax Appeals, in the manner and within the period prescribed by law and regulations.

Unless an appeal is made to the Court of Tax Appeals in the manner and within the period prescribe by laws and regulations, the action or ruling of the Commissioner shall be final and conclusive.

50 Section 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein. x x x

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

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

TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

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

ANTONIO T. CARPIO
Acting Chief Justice