Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

M/V "DON MARTIN" VOY 047 AND ITS CARGOES OF 6,500 SACKS OF IMPORTED RICE, PALACIO SHIPPING, INC., AND LEOPOLDO "JUNIOR" PAMULAKLAKIN, Petitioners,	**G.R. No. 160206**
	Present:
- versus -	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
HON. SECRETARY OF FINANCE, BUREAU OF CUSTOMS, AND THE DISTRICT COLLECTOR OF CAGAYAN DE ORO CITY, Respondents.	Promulgated: JUL 15 2015

x----------x

DECISION

BERSAMIN, *J.*:

This case involves the seizure and forfeiture of the rice cargo and its carrying vessel on the ground that the rice cargo had been smuggled.

The Case

Under review is the decision promulgated on July 29, 2003,[1] and the resolution promulgated on September 25, 2003,[2] both in CA-G.R. SP No. 66725, whereby the Court of Appeals (CA) reversed and set aside the ruling

---

[1] *Rollo*, pp. 45-57; penned by Associate Justice Mariano C. Del Castillo (now a Member of the Court) with Associate Justice Cancio C. Garcia (later Presiding Justice, and a Member of the Court/retired/deceased) and Associate Justice Eloy R. Bello, Jr. (retired) concurring.

[2] Id. at 59.

5

rendered on May 22, 2001[3] and the resolution issued on August 30, 2001[4] by the Court of Tax Appeals (CTA) in C.T.A. Case No. 5890 respectively affirming the forfeiture by the customs authorities of the vessel M/V Don Martin Voy 047 (M/V Don Martin) and its cargo of 6,500 sacks of rice, and denying the petitioners' *Motion for Reconsideration*.

Antecedents

Petitioner Palacio Shipping, Inc. (Palacio) was the owner of the M/V Don Martin, a vessel of Philippine registry engaged in coastwise trade.[5] On January 25, 1999, the M/V Don Martin docked at the port of Cagayan de Oro City with its cargo of 6,500 sacks of rice consigned to petitioner Leopoldo "Junior" Pamulaklakin (Pamulaklakin).[6] According to the petitioners, the vessel left Calbayog City on January 24, 1999 loaded with the 6,500 sacks of rice purchased in Sablayan, Occidental Mindoro.[7]

Based on an intelligence report to the effect that the cargo of rice being unloaded from the M/V Don Martin had been smuggled, the Economic Intelligence and Investigation Bureau (EIIB), with the assistance of the Bureau of Customs (BOC), apprehended and seized the vessel and its entire rice cargo on January 26, 1999.[8] The District Collector of Customs in Cagayan de Oro City then issued a warrant of seizure and detention pursuant to Section 2301[9] of the Tariff and Customs Code of the Philippines (TCCP).

At the hearing on the seizure, the petitioners represented that the vessel was a common carrier; and that the 6,500 sacks of rice had been locally produced and acquired.[10] In substantiation, they submitted several documents, as follows:

1. Certificate of Ownership – to prove that Palacio Shipping, Inc. is the owner of M/V "Don Martin",

---

3 Id. at 60-72.
4 Id. at 73-74.
5 Id. at 46, 60-61.
6 Id. at 61.
7 Id. at 14.
8 Id. at 78.
9 Section 2301. *Warrant for Detention of Property - Cash Bond*. - Upon making any, seizure, the Collector shall issue a warrant for the detention of the property; and if the owner or importer desires to secure the release of the property for legitimate use, the Collector shall, with the approval of the Commissioner of Customs, surrender it upon the filing of a cash bond, in an amount to be fixed by him, conditioned upon the payment of the appraised value of the article and/or any fine, expenses and costs which may be adjudged in the case: Provided, That such importation shall not be released under any bond when there is *prima facie* evidence of fraud in the importation of the article: Provided, further, That articles the importation of which is prohibited by law shall not be released under any circumstance whomsoever, Provided, finally, That nothing in this section shall be construed as relieving the owner or importer from any criminal liability which may arise from any violation of law committed in connection with the importation of the article (R.A. 7651, June 04, 1993).
10 *Rollo*, p. 78.

2. Coastwise License – to prove that Palacio Shipping, Inc. is duly licensed to engage in coastwise Trading and as such, is a common carrier and is financially capable to engage in shipping business;

3. Mintu Rice Mill Official Receipt No. 2753 dated January 18, 1999 – to prove that the origin of the rice is Sablayan, Occidental Mindoro and also to show that the rice is of regular mill and not smuggled;

4. NFA, Sablayan, Occidental Mindoro Clearance – to show that the bags of rice purchased under Exhibit "3" has been cleared for shipment by the National Food Authority of Sablayan, Occidental Mindoro;

5. Old NFA License of Godofredo Mintu

5-A – Renewal of the NFA License of Godofredo Mintu expiring May 31, 1999 – to show that the purchased rice came from a duly licensed Grains Trader;

6. NFA License of Florentino J. Palacio, owner of the EMP Commercial, the shipper – to prove that the shipper is a duly Licensed NFA wholesaler;

6-1 Renewal Receipt for NFA License for Fiscal Year 1998-1999;

7. NFA Clearance of Catbalogan, Western Samar – to prove that the cargo of M/V "DON MARTIN" was cleared for Cagayan de Oro City;

7-1 PPA Seal

7-2 Coast Guard Seal

7-3 Page 2 of NFA Clearance

8. Bill of Lading – to prove that the cargo was duly covered with a Bill of Lading, a requirement in coastwise shipping;

9. Coasting Manifest – to prove that the cargo of rice was duly reflected in its manifest – also a requirement for coastwise shipping;

10. Birth Certificate and photo of Leopoldo "Junior" Pamulaklakin

10-A Residence Certificate of Leopoldo "Junior" Pamulaklakin – to prove that the consignee is a living person and not fictitious person.

10-B Picture of Leopoldo "Junior" Pamulaklakin – to prove that the consignee is a living person and not a fictitious person.[11]

On March 24, 1999, District Collector of Customs Marietta Z. Pacasum rendered her ruling whereby she concluded that in the absence of a showing of lawful entry into the country the 6,500 sacks of rice were of foreign origin and thus subject to seizure and forfeiture for violation of Section 2530 (f) and (l) No. 1 of the TCCP, as amended; that the

[11] Id. at 78-79.

presentation of the supporting documents by the claimants was a strategy to conceal the true nature and origin of the rice cargo in order to mislead the Customs authorities into believing that the rice was locally produced and locally purchased; and that considering that the evidence to support the seizure and forfeiture of the carrying vessel was insufficient, the release of the vessel was to be ordered. Pertinent portions of the ruling follow:

> The results of the Laboratory Analysis of samples of the subject rice by the NFA and the Philippine Rice Institute reveal that the grain length is unusually long with 7.2 mm. for both Orion and Platinum 2000 rice samples as compared to the grain length of most Philippine Varieties which ranges from 5.8 to 6.9 mm. only. It was also found out that rice with grain length of more than 7.0 mm. are more common in the countries of Brazil, Bolivia, Guatamala and Thailand, (Exhibit "J-3" and "K-1"), although the said imported variety could be purchased locally through the NFA.
>
> Furthermore, it also appears that some white sacks/containers were marked with Premium Rice whereas per Philippine Grains Standardization, yellow color is for premium while white color is for ordinary rice. (Exhibit I).
>
> On the basis of the above findings, it can be safely concluded that the 6,500 sacks of rice subject of this proceedings are of foreign origin and therefore subject to seizure and forfeiture for violation of Section 2530 (f) and (l) no. 1 of the TCCP, as amended, in the absence of showing of its lawful entry into the country. The presentation of the supporting documents by respondents/claimants was a strategy to conceal the true nature and origin of the cargoes and to mislead the Customs Authorities into believing that subject rice are locally produced and locally purchased. Hence, said documents have no probative value whatsoever insofar as the subject cargoes are concerned.
>
> Section 2530 provides: Property Subject to Forfeiture Under Tariff and Customs Law. x x x
>
> (L) Any article sought to be imported or exported:
>
> 1. Without going through a Customhouse, whether the act was consummated, frustrated or attempted.
>
> Since the subject rice was established to be of the imported variety and considering that the said cargoes are not covered by proper import documents, the importation of the same fall squarely on the above quoted provision of the TCCP.
>
> With respect to the carrying vessel, **MV "DON MARTIN",** which is a common carrier, no evidence sufficient enough to warrant its forfeiture in favor of the government was presented to satisfy the provision of Section 2530 paragraph a and k of the TCCP. On the other hand, respondent/claimant was able to show proof to defeat a forfeiture decree, by presentation of pertinent documents relative to the following requirements, viz:

1. That the owner is engaged in the business for which the conveyance is generally used;
2. That the owner is financially in a position to own such conveyance and
3. That the vessel has not been used for smuggling at least twice before. (Exhibit 1 & 2) in compliance with the provision of Section 2531 of the TCCP.

WHEREFORE, in light of the foregoing and by virtue of the authority vested in the undersigned under Section 2312 of the Tariff and Customs Code of the Philippines, as amended, it is hereby ordered and decreed that the 6,500 sacks of imported rice subject of this seizure proceedings be, as they are hereby decreed forfeited in favor of the Government of the Republic of the Philippines to be disposed of in the manner provided by law. It is further ordered and decreed that the carrying vessel **MV "DON MARTIN"** be released to the owner/claimant and be cleared for its next destination, for insufficiency of evidence.

x x x x

SO ORDERED.[12]

Pamulaklakin appealed, but BOC Deputy Commissioner Emma M. Rosqueta, in her decision dated April 19, 1999, upheld District Collector Pacasum, holding thusly:

This Office is convinced that the 6,500 sacks of rice subject matter of this case are of foreign growth and origin. No evidence of lawful entry of the said rice into the country as well as payment of duties and taxes has been presented, hence, the said cargo is liable to forfeiture under Section 2530 (a), (f) and (I) – 1 of the Tariff and Customs Code.

WHEREFORE, the decision of the District Collector of Customs, Port of Cagayan de Oro, ordering the forfeiture of the 6,500 sacks of rice discharge (sic)/ seized from the M/V "DON MARTIN" is AFFIRMED. It is further ordered and decreed that the said rice be immediately disposed of in accordance with law.

x x x x

SO ORDERED.[13]

Meanwhile, the order to release the vessel, being adverse to the interest of the Government, was elevated to the Secretary of Finance for automatic review pursuant to Section 2313 of the TCCP. In his 3rd Indorsement dated May 11, 1999, then Secretary of Finance Edgardo B. Espiritu reversed the order for the release of the vessel based on the finding that "the operator of the vessel is the shipper of the smuggled goods."[14]

---

12 Id. at 79-80.
13 Id. at 77.
14 Id. at 75.

Consequently, on June 21, 1999, the petitioners brought a petition for review in the CTA (CTA Case No. 5890) to seek the nullification of the May 11, 1999 3rd Indorsement of the Secretary of Finance,[15] and to obtain the release of the rice shipment and the vessel.[16]

Pending the resolution of the appeal, the CTA issued its resolution dated November 8, 1999 ordering the release of the vessel and the rice cargo upon the petitioners' filing of GSIS Surety Bond 032899 and GSIS Surety Bond 032900 in the respective amounts of ₱5,550,000.00 and ₱6,682,000.00 in favor of the BOC.[17]

On May 22, 2001, the CTA rendered its decision in favor of the petitioners, disposing thusly:

> **IN LIGHT OF ALL THE FOREGOING,** the decisions of the Respondents are hereby **REVERSED** and **SET ASIDE.** Accordingly, the GSIS Surety Bonds in the total amount of P12,232,000.00, which were earlier posted by Petitioners for the release of the subject cargo of rice and its carrying vessel are hereby **ORDERED RELEASED** for reasons aforestated. No costs.
>
> **SO ORDERED.**[18]

The respondents filed their *Motion for Partial Reconsideration,*[19] citing the sole ground that the April 19, 1999 decision by BOC Deputy Commissioner Rosqueta upholding the forfeiture of the 6,500 sacks of rice had already attained finality; and arguing that the CTA lacked the jurisdiction to resolve the issue on the forfeiture of the 6,500 sacks of rice because the appeal to the CTA had been limited to the forfeiture of the vessel.

After the CTA denied the *Motion for Partial Reconsideration* on August 30, 2001,[20] the respondents appealed to the CA, reiterating that the CTA did not acquire jurisdiction over the issue of the forfeiture of the 6,500 sacks of rice. [21]

The petitioners countered that the April 19, 1999 decision of BOC Deputy Commissioner Rosqueta did not yet attain finality because they had been belatedly furnished a copy of it; and that the respondents raised the

---

15 CTA *rollo,* p. 2.
16 Id. at 15.
17 Id. at 99-100.
18 *Rollo,* pp. 71-72.
19 CTA *rollo,* pp. 165-175.
20 *Rollo,* pp. 184-185.
21 CA *rollo,* pp. 7-33.

issue of jurisdiction only after receiving the adverse decision of the CTA.

Pending resolution of the appeal, the CTA issued its resolution dated February 19, 2003 granting the petitioners' *Manifestation and Motion to Release/Cancel GSIS Surety Bonds.*[22] Upon motion of the respondents, however, the CA issued a 60-day temporary restraining order to enjoin the CTA from implementing its February 19, 2003 resolution.[23]

On July 29, 2003, the CA promulgated its assailed decision,[24] disposing:

> **WHEREFORE,** finding merit in the instant petition, the same is **GIVEN DUE COURSE.** The Decision and the Resolution of the Court of Tax Appeals ordering the release of the 6,500 sacks of rice and its carrying vessel M/V "Don Martin" is **REVERSED** and **SET ASIDE** and the same is hereby **ORDERED** forfeited in favor of the Government. Costs against private respondents.
>
> **SO ORDERED.**[25]

On September 25, 2003, the CA denied the petitioners' *Motion for Reconsideration*.[26]

Issues

In this appeal, the petitioners focus on the following issues, namely:

> A.
> WHETHER OR NOT THE COURT OF APPEALS ERRED IN DECLARING THE SUBJECT ARTICLES FORFEITED IN FAVOR OF THE GOVERNMENT CONSIDERING THAT RICE SHIPMENT WAS PRODUCED AND PURCHASED LOCALLY.
>
> B.
> WHETHER OR NOT THE FACTUAL DETERMINATION OF THE COURT OF TAX APPEALS CAN BE REVERSED BY THE COURT OF APPEALS DESPITE THE FACT THAT THE DECISION OF THE TAX COURT IS SUPPORTED BY SUBSTANTIAL EVIDENCE.[27]

In other words, to be determined are the following legal questions, namely: (1) the jurisdiction of the CTA on the forfeiture of the 6,500 sacks

---

22 Id. at 174-177.
23 Id. at 198.
24 Supra note 1.
25 Id. at 56-57.
26 *Rollo*, p. 59.
27 Id. at 19.

of rice; and (2) the propriety of the forfeiture of the 6,500 sacks of rice and its carrying vessel.

Ruling

The appeal is meritorious.

1.
The CTA had jurisdiction to resolve the issue on the forfeiture of the 6,500 sacks of rice and of the vessel

At the time of the filing on June 21, 1999 in the CTA of the petition for review,[28] the jurisdiction of the CTA was defined and governed by Section 7 of Republic Act No. 1125 (*An Act Creating the Court of Tax Appeals*), which relevantly states:

> Section 7. *Jurisdiction.* – The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
>
> x x x x
>
> 2. 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 imposed in relation thereto or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs
>
> x x x x

The TCCP contained a counterpart provision that reads:

> Section 2402. *Review by Court of Tax Appeals.* – The party aggrieved by a 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 prescribed by laws and regulations, the action or ruling of the Commissioner shall be final and conclusive.

Conformably with the foregoing provisions, the action of the Collector of Customs was appealable to the Commissioner of Customs, whose decision was subject to the exclusive appellate jurisdiction of the

---

[28] CTA *rollo*, p. 1.

CTA, whose decision was in turn appealable to the CA.[29]

Nonetheless, the respondents contend that the petitioners did not appeal the April 19, 1999 decision of BOC Deputy Commissioner Rosqueta on the forfeiture of the 6,500 sacks of rice; and that in accordance with Section 11 of R.A. No. 1125 the decision consequently became final and executory 30 days from their receipt of the decision.

The respondents' contention is bereft of merit.

The April 19, 1999 decision of BOC Deputy Commissioner Rosqueta on the forfeiture of the 6,500 sacks of rice would become final and immutable if the petitioners did not appeal it in the CTA within 30 days from receipt thereof. Such period of appeal was expressly set in Section 11 of R.A. No. 1125, which relevantly declares:

> Section 11. *Who may appeal; effect of appeal.*— Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.
> x x x

The petitioners insisted in their *Comment/Opposition (To Respondents Motion for Partial Reconsideration)*, however, that they were not furnished a copy of the decision of BOC Deputy Commissioner Rosqueta; and that they only learned of the decision on June 1, 1999 after the issuance of the May 11, 1999 3rd Indorsement of the Secretary of Finance.[30] Considering that the respondents did not dispute such insistence of the petitioners, and did not present evidence showing the contrary, the 30-day period for filing the appeal in the CTA commenced to run for the petitioners only after June 1, 1999, which was the date when they unquestionably acquired notice of the adverse decision. Accordingly, they had until July 1, 1999 within which to appeal. With their petition for review being filed on June 21, 1999, which was well within the 30-day period provided in Section 11, *supra*, their appeal was timely.

Moreover**,** the records indicated that the petitioners' appeal in the CTA raised the following issues, to wit:

> It is respectfully submitted that respondents erred:

---

29 *Jao v. Court of Appeals*, G.R. No. 104604, October 6, 1995, 249 SCRA 35, 43.
30 CTA *rollo*, pp. 178-179.

A.

IN DECLARING THAT THE SUBJECT VESSEL M/V "DON MARTIN" BE FORFEITED IN FAVOR OF THE GOVERNMENT FOR VIOLATION OF SECTION 2530 (a) and (k) (sic) THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES.

B.

IN DECLARING THAT THE SUBJECT CARGO OF RICE BE FORFEITED IN FAVOR OF THE GOVERNMENT DESPITE THE TESTIMONIAL AND DOCUMENTARY EVIDENCE OF PETITIONERS INDISPUTABLY SHOWING THAT THE SAME WAS PRODUCED AND ACQUIRED LOCALLY. [31]

and that they prayed for the release of *both* the vessel and its cargo of rice. They also extensively presented in their petition for review their arguments on the illegality of the forfeiture of the rice.[32] Under the circumstances, the issue on the legality of the forfeiture of the rice was fully raised and submitted in the CTA, which thus had adequate basis to resolve it.

Lastly, under Section 2530 (a) and (k)[33] of the TCCP, the forfeiture of a vehicle, vessel or aircraft is anchored on its being used unlawfully in the transport of contraband or smuggled articles into or from any Philippine port. Consequently, the determination of the legality of the forfeiture of the M/V Don Martin was necessarily contingent on whether the customs authorities had validly and properly seized the shipment of 6,500 sacks of rice on account of the rice being smuggled. Given this logical correlation, the CTA could not be divested of its jurisdiction to determine the legality of the forfeiture of the rice.

In this regard, we hold it fitting to reiterate that:

> Once a court acquires jurisdiction over a case, it has wide discretion to look upon matters which, although not raised as an issue,

---

31 Id. at 19.

32 Id. at 12-15.

33 SEC. 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: 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

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; x x x x

x x x x

> would give life and meaning to the law. Indeed, the Rules of Court recognize the broad discretionary power of an appellate court to consider errors not assigned.
>
> x x x x
>
> **Thus, an appellate court is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal in these instances**: (a) grounds not assigned as errors but affecting jurisdiction over the subject matter; (b) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; **(c) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice;** (d) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; **(e) matters not assigned as errors on appeal but closely related to an error assigned; and (f) matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.**[34] (Emphasis supplied.)

2.
The CA did not reverse the factual findings of the CTA

The petitioners argue that the CA should not have reversed the factual findings of the CTA because such findings were supported by substantial evidence; that the CA should not have favored the assumption by the Secretary of Finance that the operator of the vessel was also the shipper of the smuggled goods; and that the cargo of rice should not have been found as unlawfully imported considering that all the documents they had presented to prove the contrary had been verified and uncontested.

The petitioners' arguments are unfounded.

It is true that the CTA is a highly specialized body specifically created for the purpose of reviewing tax cases; hence, its findings of fact are to be accorded utmost respect.[35] Indeed, the factual findings of the CTA, when supported by substantial evidence, are not to be disturbed on appeal unless there is a showing that the CTA committed gross error or abuse in the appreciation of facts.[36]

---

[34] *Comilang v. Burcena*, G.R. No. 146853, February 13, 2006, 482 SCRA 342, 349.

[35] See *Commissioner of Internal Revenue v. Toledo Power Company*, G.R. No. 183880, January 20, 2014, 714 SCRA 292..

[36] See *Commissioner of Internal Revenue v. Court of Appeals*, G.R. No. 124043, October 14, 1998, 298 SCRA 83, 91.

Here, however, it was obvious that the CA did not modify or alter any of the factual findings of the CTA, but only re-assessed the findings because of the conflicting conclusions reached by the CTA and the BOC. After its re-assessment, the CA declared that the conclusions by the BOC and the Secretary of Finance were more sustainable and convincing than those of the CTA.[37] By so declaring, the CA did not change the factual findings of the CTA but only arrived at a different interpretation of the findings that tilted its appellate resolution in favor of the respondents. The CA thereby simply exercised its power of appellate review. Indeed, the CA, as the appellate court, had the authority to either affirm, or reverse, or modify the appealed decision of the CTA. To withhold from the CA its power to render an entirely new decision would trench on its power of review, and would, in effect, render it incapable of correcting the patent errors of the lower court.[38]

3.
The 6,500 sacks of rice were not unlawfully imported into the Philippines; hence, there was no legal ground for the forfeiture of the rice and its carrying vessel

In resolving the issue whether the rice shipment constituted smuggling or unlawful importation, the CTA observed that –

> x x x [I]n order that a shipment be liable (to) forfeiture, it must be proved that fraud has been committed by the consignee/importer to evade the payment of the duties due. This is clear under Section 2530 (f) and (l) of the TCCP. To establish the existence of fraud, the *onus probandi* rests on the Respondents who ordered the forfeiture of the shipment of rice and its carrying vessel M/V "DON MARTIN."
>
> x x x x
>
> The Special and Affirmative Defenses of the Respondents generally averred that the subject 6,500 bags of rice are of imported variety which are not covered by proper import documents, hence should be declared forfeited in favor of the government.
>
> We do not agree. The said ratiocination of Respondents did not clearly indicate any actual commission of fraud or any attempt or frustration thereof. As defined, actual or intentional fraud consist of deception wilfully and deliberately done or resorted to in order to induce another to give up some right (*Hon Farolan, Jr. vs. Court of Tax Appeals, 217 SCRA 298*). It must amount to intentional wrong-doing with the sole object of avoiding the tax. (*Aznar vs. Court of Tax Appeals, 58 SCRA 543*).
>
> The circumstances presented by the Respondents in their Answer do not reveal to us any kind of deception committed by Petitioners. Such circumstances are nothing more than mere half-baked premises that fail to support the proposition sought to be established which is the commission

---

37 *Rollo*, pp. 53-54.
38 *Heirs of Carlos Alcaraz v. Republic*, G.R. No. 131667, July 28, 2005, 464 SCRA 280, 294-295.

> of fraud in accordance with Section 2530 (f) and (l) of the TCCP, as amended.
>
> x x x x
>
> The Court is in total acquiescence with the argument of Petitioners that it is *non sequitur* to conclude that the subject rice was imported simply because its grain length is more common in other foreign countries. **Firstly,** the said laboratory analysis by both the NFA and Philippine Rice Research Institute are not conclusive. In fact, the Head of the Rice Chemistry and Food Science Division of the Philippine Rice Research Institute, Mr. James Patindol, **admitted that it is premature to conclude that the samples are indeed imported by simply relying on the grain length** (Annex "H"). **Secondly,** these inconclusive findings do not and cannot overcome the documentary evidence of Petitioners that show that said rice was produced, milled and acquired locally. And **thirdly,** at the time the vessel M/V "DON MARTIN" and its cargo of rice were seized on 26 January 1999, the agents of the EIIB and the Bureau of Customs never had a probable cause that would warrant the filing of the seizure proceedings. The Government agents only made their inquiries about the alleged smuggling only three (3) days after the seizure. This is a gross violation of Section 2535 in relation to Section 2531 of the Tariff and Customs Code of the Philippines x x x.[39]

The CA reversed the CTA, and adopted the findings by the District Collector Pacasum and the Secretary of Finance to buttress its conclusion that the rice was of imported variety and origin; that there were no proper import documents that accompanied the importation as required by law; and that the forfeiture of the vessel was in order because its operator was also the shipper of the 6,500 sacks of rice.[40]

To warrant forfeiture, Section 2530(a) and (f) of the TCCP requires that the importation must have been unlawful or prohibited. According to Section 3601 of the TCCP: "*[a]ny person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such article after importation, knowing the same to have been imported contrary to law, shall be guilty of smuggling*."[41]

Was the rice cargo the product of smuggling or unlawful importation?

The resolution of this query requires the re-examination of the evidence. Ordinarily, the Court, not being a trier of facts, does not do the re-examination, but in view of the conflicting conclusions reached by the CTA

---

[39] *Rollo*, pp. 68-71.
[40] Id. at 53-56.
[41] See also Section 3514, TCCP; *Jardeleza v. People*, G.R. No. 165265, February 6, 2006, 481 SCRA 638, 661.

and the CA on the matter, the Court should review and re-assess the evidence in order to resolve the issues submitted in this appeal.[42]

After careful review, the Court upholds the CTA.

To warrant the forfeiture of the 6,500 sacks of rice and the carrying vessel, there must be a prior showing of probable cause that the rice cargo was smuggled.[43] Once probable cause has been shown, the burden of proof is shifted to the claimant.[44]

The M/V Don Martin and its cargo of rice were seized and forfeited for allegedly violating Section 2530 (a), (f), (k) and (l), paragraph (1), of the TCCP, to wit:

> Section 2530. *Property Subject to Forfeiture Under Tariff and Customs Laws*. – 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 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 exportation of the former; x x x
>
> x x x x

---

[42] See *Heirs of Antonio Feraren v. Court of Appeals (Former 12th Division)*, G.R. No. 159328, October 5, 2011, 658 SCRA 569, 574-575.

[43] Section 2535 of the TCCP states:

Sec. 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] *Carrara Marble Philippines, Inc. v. Commissioner of Customs*, G.R. No. 129680, September 1, 1999, 313 SCRA 453, 461.

> 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 or 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;
>
> l. Any article sought to be imported or exported:
>
> (1) Without going through a customhouse, whether the act was consummated, frustrated or attempted; x x x.
>
> x x x x

Conformably with the foregoing, therefore, the respondents should establish probable cause prior to forfeiture by proving: (1) that the importation or exportation of the 6,500 sacks of rice was effected or attempted contrary to law, or that the shipment of the 6,500 sacks of rice constituted prohibited importation or exportation; and (2) that the vessel was used unlawfully in the importation or exportation of the rice, or in conveying or transporting the rice, if considered as contraband or smuggled articles in commercial quantities, into or from any Philippine port or place.

A review of the records discloses that no probable cause existed to justify the forfeiture of the rice cargo and the vessel.

To prove that the rice shipment was imported, rice samples were submitted to and examined by the Philippine Rice Research Institute (PRRI), which, however, could not reach a definitive conclusion on the origin of the rice shipment, and even deemed itself inadequate to reach such conclusion, opining that: "*It is premature to conclude though that your samples are indeed imported, by simply relying on the grain length data. More thorough analyses need to be done*." PRRI explained:

> x x x We are sorry to inform you, however, that our institute does not have the capability yet to identify local milled rice from imported ones. Routine grain quality analysis in our institute only includes: grain size and shape, % chalky grains, % amylose, % protein, gel consistency, gelatinization temperature, and cooked rice texture. Based on experience, these parameters are not reliable enough to be used as criteria in identifying local from imported cultivars.

> The samples submitted to us are *indica* types. This further complicates the identification since our local cultivars are *indica* types as well. However, based on our initial analysis, we noticed that the grain length of your samples is unusually long. It is 7.2 mm for both Orion and Platinum 2000. Milled rice grain length of most Philippine varities (sic) usually ranges from 5.8 to 6.9 mm only. We seldom encounter local cultivars with milled rice grain length of more than 7.0 mm. I tried to browse the Handbook on Grain Quality of World Rices (by Juliano and Villareal, 1993) and I found out that cultivars with grain length above 7.0 mm are more common in the countries of Brazil, Bolivia, Guatemala, and Thailand. **It is premature to conclude though that your samples are indeed imported, by simply relying on the grain length data. More thorough analyses need to be done.**[45] (Emphasis supplied.)

The National Food Authority (NFA) made a separate laboratory analysis of the rice grain samples, and concluded that the samples resembled "NFA imported rice."[46] It issued a certification dated January 29, 1999[47] to the effect that –

> x x x per Philippine Grains Standardization Program **there was a mislabelling of the rice stocks samples confiscated by Economic Intelligence and Investigation Bureau (EIIB) last January 27, 1999 unloaded from MV Don Martin at Cagayan de Oro City port**.
>
> Observed defeciencies (sic) are as follows:
>
> 1. Some white sacks/containers were marked with Premium Rice (per PGS yellow color is for premium variety while white color is for ordinary rice).
>
> 2. No information available on the quality parameters such as classification, grade, milling degree, date of milling and its miller/packer on all containers used (with logo, Platinum 2000 and Orion).

The results of the laboratory analyses of the rice samples were rendered by the PRRI and the NFA only on February 4, 1999 and February 5, 1999, respectively.[48] It is clear, therefore, that the evidence offered by the respondents to establish that the 6,500 sacks of rice were smuggled or were the subject of illegal importation was obtained only after the forfeiture of the 6,500 sacks of rice had been effected on January 26, 1999.

---

45 CTA *rollo* (Folder 2), Exhibit "K-1".
46 Id. Exhibit "J-3".
47 Id. Exhibit "I".
48 Id. Exhibits "I", "J-3", and "K-1".

Moreover, there is no question that the proof of the rice being smuggled or the subject of illegal importation was patently insufficient. Although the rice samples from the shipment dominantly bore foreign rice characteristics as compared with the Philippine varieties, the PRRI itself opined that further analysis was necessary to turn up with a more concrete result. But no additional analysis was made. There was also no proof to establish that the petitioners had been responsible for the mislabelling in the packaging of the rice shipment, or that the mislabelling had been intentionally done to evade the payment of customs duties.

In contrast, the records showed that the 6,500 sacks of rice were of local origin, having been purchased from Sablayan, Occidental Mindoro from a licensed grains dealer. The local origin was substantiated by the official receipts, business license and certificate of registration issued by the NFA in favor of the source in Sablayan, Occidental Mindoro, Mintu Rice Mill, and its proprietor, Godofredo Mintu.[49]

The petitioners likewise submitted a copy of the Coastwise License[50] issued to the M/V Don Martin, proving that the vessel had been registered only for coastwise trade. A craft engaged in the coastwise and interisland trade was one that carried passengers and/or merchandise for hire between ports and places in the Philippine Islands.[51] Under Section 902 of the TCCP, the right to engage in the Philippine coastwise trade was limited to vessels carrying a certificate of Philippine registry,[52] like the M/V Don Martin.[53] To legally engage in coastwise trade, the vessel owner must further submit other documents, like the bill of lading and coastwise manifest,[54] documents that were also presented by the petitioners during the forfeiture proceedings.[55] In the absence of any showing by the respondents that the vessel was licensed to engage in trade with foreign countries and was not limited to coastwise trade, the inference that the shipment of the 6,500 sacks of rice was transported only between Philippine ports and not imported from a foreign country became fully warranted.

---

49 Id. Exhibit “3”.
50 Id. Exhibit “2”.
51 *Commissioner of Customs v. Borres*, 106 Phil. 625 (1959).
52 Section 802 of the TCCP further provides that every vessel used in the Philippine waters, not being a transient of foreign registry, shall be registered in the Bureau of Customs.
53 CTA *Rollo* (Folder 2), Exhibit “1-1”
54 Sections 906 to 909, TCCP.
55 CTA *Rollo* (Folder 2), Exhibits “8” to “9”.

Here, the importation of rice was not among the prohibited importations provided under Section 101[56] of the TCCP. Nor was there any other law that prohibited the importation of rice.

Still, the respondents insist that the 6,500 sacks of rice were unlawfully imported because the shipment was not accompanied by the necessary import documents.

The insistence was unreasonable and unwarranted.

The law penalizes the importation of any merchandise in any manner contrary to law.[57] Yet, the shipment of the 6,500 sacks of rice was clearly not contrary to law; hence, it did not constitute unlawful importation as defined under Section 3601 of the TCCP. The phrase *contrary to law* in Section 3601 qualifies the phrases *imports or brings into the Philippines* and *assists in so doing*, not the word *article*.

The respondents' insistence was based on the premise that the rice shipment was imported. The premise was plainly erroneous. With the petitioners having convincingly established that the 6,500 sacks of rice were of local origin, the shipment need not be accompanied by import documents. Nor was it shown that the shipment did not meet other legal requirements. There were no other circumstances that indicated that the 6,500 sacks of rice

---

[56] SEC. 102. Prohibited Importations.

The importation into the Philippines of the following articles is prohibited:

1. Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, and parts thereof, except when authorized by law.

2. Written or printed articles in any form containing any matter advocating or inciting treason, or rebellion, insurrection, sedition or subversion against the Government of the Philippines, or forcible resistance to any law of the Philippines, or containing any threat to take the life of, or inflict bodily harm upon any person in the Philippines.

3. Written or printed articles, negatives or cinematographic film, photographs, engravings, lithographs, objects, paintings, drawings or other representation of an obscene or immoral character.

4. Articles, instruments, drugs and substances designed, intended or adapted for producing unlawful abortion, or any printed matter which advertises or describes or gives directly or indirectly information where, how or by whom unlawful abortion is produced.

5. Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes or other articles when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof.

6. Lottery and sweepstakes tickets except those authorised by the Philippine Government, advertisements thereof, and lists of drawings therein.

7. Any article manufactured in w hole or in part of gold, silver or other precious metals or alloys thereof, the stamps, brands or marks or which do not indicate the actual fineness of quality of said metals or alloys.

8. Any adulterated or misbranded articles of food or any adulterated or misbranded drug in violation of the provisions of the "Food and Drugs Act ".

9. Marijuana, opium, poppies, coca leaves, heroin or any other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, except when imported by the Government of the Philippines or any person duly authorised by the Dangerous Drugs Board, for medicinal purposes only.

10. Opium pipes and parts thereof, of whatever material. All other articles and p arts thereof, the importation o f which i s prohibited by law o r rules and regulations issued by competent authority.

[57] *Jardeleza v. People*, supra note 41, at 661.

were fraudulently transported into the Philippines; on the contrary, the petitioners submitted documents supporting the validity and regularity of the shipment.

It then becomes unavoidable to address the fate of the M/V Don Martin. The penalty of forfeiture could be imposed on any vessel engaged in smuggling, provided that the following conditions were present, to wit:

> (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."[58]

With the absence of the first and second conditions, the M/V Don Martin must be released.

WHEREFORE, the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the decision promulgated on July 29, 2003 by the Court of Appeals in CA-G.R. SP No. 66725; **REINSTATES** the decision rendered on May 22, 2001 by the Court of Tax Appeals; **RELEASES** and **DISCHARGES** GSIS Surety Bond 032899 and GSIS Surety Bond 032900 in the total amount of ₱12,232,000.00; and **CONSIDERS** this case **CLOSED AND TERMINATED**, without pronouncement on costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

---

[58] *El Greco Ship Manning and Management Corporation v. Commissioner of Customs*, G.R. No. 177188, December 4, 2008, 573 SCRA 70, 85.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

MARIA LOURDES P. A. SERENO
Chief Justice