Library

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EUGENIA MANABAT and
THE EQUITABLE INSURANCE
AND CASUALTY CO., INC.,
Petitioners,

versus

THE COMMISSIONER OF
CUSTOMS,
Respondent.

Apr. 13, 1966

C. T. A. CASE NO. 1643

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

D E C I S I O N

This is an appeal from the decision of the respondent Acting Commissioner of Customs, dated May 14, 1965, dismissing petitioners' joint appeal for having been filed beyond the 15-day reglementary period prescribed in Section 2313 of the Tariff and Customs Code.

The facts of the case are not disputed, the parties having entered into a stipulation of facts during the administrative hearing of the case in the Bureau of Customs. It appears that Petitioner Eugenia Manabat (hereinafter referred to as Claimant) was the consignee of the following shipments of foodstuffs and various merchandise which arrived in the port of Manila from Hongkong:

1. Shipments which arrived on board the S/S HENRIK, Reg. No. 443, at the Port of Manila from Hongkong, and more particularly described in Entry Nos. 34329, 34329-A, and 34331, all series of 1955, sometime on April 19, 1955;

2. Shipments which arrived on board the S/S AEOLUS, Reg. No. 350, at the Port of Manila from Hongkong, and more particularly described in Entry No. 34621, Series of 1955, sometime on April 21, 1955;

3. Shipments which arrived on board the S/S PRETORIA, Reg. No. 455, at the Port of Manila from Hongkong, and more particularly described in Entry Nos. 35034 and 35033, both series of 1955, sometime on April 23, 1955;

4. Shipments which arrived on board the S/S TALISMAN, Reg. No. 468, at the Port of Manila from Hongkong, and more particularly described in Entry Nos. 36549 and 36550, both series of 1955, sometime on April 28, 1955;

5. Shipments which arrived on board the S/S BENVORLICH, Reg. No. 486, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 36879-26 and 36879, both series of 1955, sometime on May 1, 1955;

6. Shipments which arrived on board the S/S MANCHURIA, Reg. No. 504, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 39206 and 39207, both series of 1955, sometime on May 3, 1955;

7. Shipments which arrived on board the S/S HAI MENG, Reg. No. 549, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 42592 and 42593, both series of 1955, sometime on May 12, 1955;

8. Shipments which arrived on board the S/S TALABOT, Reg. No. 555, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 43731 and 43730, both series of 1955, sometime on May 14, 1955;

9. Shipments which arrived on board the S/S FRANKFURT, Reg. No. 582, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 45862 and 45863, both series of 1955, sometime on May 22, 1955;

10. Shipments which arrived on board the S/S MANCHURIA, Reg. No. 616, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 48154 and 48155, both series of 1955, sometime on May 30, 1955;

11. Shipments which arrived on board the S/S TAIWAN, Reg. No. 617, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 48277 and 48279, both series of 1955, sometime on May 31, 1955;

12. Shipments which arrived on board the S/S KOREA, Reg. No. 643, at the port of Manila from Hongkong, and more particularly described in Entry Nos. 49871 and 49870, both series of 1955, sometime on June 4, 1955. (pp. 25-48, Customs rec.)

The customs duties and taxes due on the above shipments were duly paid, but for lack of Central Bank release certificate they were seized by the Acting Collector of Customs for the Port of Manila for violation of Central Bank Circulars Nos. 44 and 45, in relation to Sections 1363(f) and 1250 of the Revised Administrative Code. The merchandise were, however, released under Surety Bond Nos. 54635, 54638, 54647, 54658, 54673, 54672, 54691, 54700, 54710, 54711, 54716, 54730, 54762, 54766, 54772, 54773, 54818, 54821, 54835, 54846, 54865, 54864, 54891 and 54892, dated April 20, April 20, April 21, April 25, April 27, April 27, April 29, May 3, May 5, May 5, May 6, May 9, May 16, May 17, May 18, May 18, May 26, May 27, May 31, May 31, June 3, June 3, June 7 and June 8, 1955, respectively, in the respective sums of ₱1,518.00, ₱7,228.00, ₱12,599.00, ₱7,204.00, ₱4,633.00, ₱11,367.00, ₱4,925.00, ₱3,101.00, ₱1,214.00, ₱2,572.00, ₱815.00, ₱2,294.00, ₱4,608.00,

₱3,658.00, ₱13,593.00, ₱1,254.00, ₱5,235.11, ₱3,768.00, ₱10,638.00, ₱1,640.00, ₱2,919.00, ₱8,601.00, ₱11,318.00, and ₱4,805.00, or a total of ₱131,497.11 and issued by petitioner Equitable Insurance & Casualty Co., Inc. (hereinafter referred to as Surety), to answer for the appraised value of the merchandise in question in case of forfeiture to the Government (pp. 49-144, Customs rec.).

The Acting Collector of Customs for the Port of Manila rendered a decision dated April 7, 1961, adverse to the petitioners. This decision was received by Claimant's counsel, Atty. B. J. Molina, on April 21, 1961 (p. 329, Customs Rec.), and by the Surety on April 27, 1961 (p. 330, Customs rec.). On May 9, 1961, Claimant and Surety, through their new counsel, K. V. Faylona, filed a motion for extension of 20 days from May 12, 1961 within which to file a motion for reconsideration or appeal the decision (p. 332, Customs rec.). On May 19, 1961, Claimant and Surety filed a motion for reconsideration, dated May 20, 1961 (pp. 333-335, Customs rec.). On September 6, 1961, the Acting Collector of Customs denied the motion for extention (pp. 336-337, Customs rec.). Subsequently the Collector denied the motion for reconsideration for being out of time (p. 339, Customs rec.). On September 8, 1961, Claimant and Surety filed a notice of appeal (p. 344, Customs rec.). In a decision dated

May 14, 1965, the respondent Commissioner of Customs dismissed the appeal for having been filed out of time. Hence, the instant Petition for Review.

This case was submitted for decision solely on the basis of the pleadings and the customs records (p. 18, CTA rec.).

The issues raised for our determination are:

1. Whether or not this Court has jurisdiction to entertain the instant appeal;

2. Whether or not a surety has personality to appeal to this Court; and

3. Whether or not the merchandise in question are subject to forfeiture.

We will first resolve the question of jurisdiction. Respondent claims that petitioners failed to perfect their appeal from the decision of the Acting Collector of Customs for the Port of Manila to respondent within the 15-day reglementary period provided in Section 2313 of the Tariff and Customs Code. Section 2313 of the said Code provides:

> "SEC. 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, <u>within fifteen days after notification in writing by the Collector of his action or decision, give written notice to the Collector of his desire to have the matter reviewed by the Commissioner</u>. x x x" (Underlining supplied)

As afore-stated, Claimant's counsel, Atty. B. J. Molina, and his Surety received the decision of the

Acting Collector of Customs, dated April 7, 1961, on April 21, 1961 and April 27, 1961, respectively. Petitioners had 15 days from the dates they received the decision of the Acting Collector of Customs, or up to May 6, 1961 and May 12, 1961, respectively, within which to perfect their appeals to respondent. Since no appeal therefrom was interposed by petitioners within the 15-day statutory period, the decision of the Acting Collector of Customs became final and executory thereafter (Que Po Lay v. Central Bank of the Phil., et al., L-11019, Nov. 28, 1958; Comm. of Customs v. Encarnacion, 95 Phil. 439).

The motion for extension of time to file a motion for reconsideration or appeal did not interrupt the running of the period for appeal because it was subsequently denied and the mere filing of a motion for reconsideration does not interrupt the period for appeal (See Gibbs v. C.F.I. of Manila, 80 Phil. 160; Garcia v. Buenaventura, 74 Phil. 611; Alejandro v. Endencia, 64 Phil. 321; Aguinaldo Bros., Inc. v. Lingad, CTA Resol. 1516, Aug. 15, 1966). As for the motion for reconsideration, it appears that same was out of time since it was filed only on May 19, 1961 - 28 days from receipt by Claimant's counsel of the decision of the Collector of Customs, and 22 days from receipt of said decision by the Surety's counsel. By that time, the decision of the Collector of Customs had become final.

Having arrived at the conclusion that this Court has no jurisdiction over the present appeal, we find it unnecessary to pass upon the other issues posed before us.

WHEREFORE, the decision of respondent dismissing the above-entitled case is hereby affirmed, with costs against petitioners.

SO ORDERED.

Quezon City, December 13, 1966.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge