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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

August 27, 1956

Not Appealed

RAFAEL KOA, alias GAN AH,
Petitioner,

- versus - C.T.A. CASE NO. 325

MANUEL P. MANAHAN,
COMMISSIONER OF CUSTOMS,
Respondent.

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

D E C I S I O N

This is an appeal from the decision of the respondent which affirmed the order of the Collector of Customs of Manila in Seizure Identification No. 2194 entitled "Republic of the Philippines vs. 4 Gold Bars weighing 760.614 grams; Dollar Bills in Different Denominations Amounting to $36,505.00; and 196 Checks of Different Banks Worth $16,264.15."

The material facts of the case are briefly stated in the memorandum of counsel for petitioner, as follows:

> "On November 15, 1954, Lim Ho, a passenger bound for Hongkong, presented her baggage for examination to the Customs officials. Before conducting the examination of said passenger's suitcase, the examiner asked her if she had dollars and gold in her suitcase to which she replied in the negative. After the suitcase had already been examined and on board the plane, NBI agents arrived and requested the re-examination of said suitcase in their presence. During the re-examination by the customs examiner and the NBI agents, $36,505.00 bills and $16,264.15 in checks were found inside the so-called false side of the suitcase. The re-examination was discontinued and resumed at the office of the NBI, where gold bars weighing 760.614 grams were found similarly kept inside the suitcase.

These articles were not covered by any license from the Central Bank; hence, the same were seized and turned over to the Central Bank for safekeeping.

"Subsequently, Seizure Identification No. 2194 was instituted, entitled Republic of the Philippines versus Four (4) Gold Pieces, Dollar Bills in different denominations -- $36,505.00 and Checks -- $16,264.15, Lim Ho, Claimant, and Gaw Ah, Third Party Claimant. In a decision dated May 30, 1956, the Collector of Customs decreed the forfeiture of the above-mentioned articles in favor of the Government. Third party claimant Rafael Koa, alias Gaw Ah, appealed said decision to the Commissioner of Customs, who, in his decision of October 4, 1956, affirmed the decision of the Collector of Customs en toto without modification.

"The present petition for review seeks the annulment of the decision of the Commissioner of Customs and the return of the gold bars, dollar bills and checks, subject of Seizure Identification No. 2194, to petitioner, the lawful owner thereof.

"Petitioner and respondent submitted an agreed statement of the facts of the case. It is conceded that petitioner is the owner of the above-mentioned articles. With the presentation of their documentary evidence, both petitioner and respondent rested. x x x" (See pp. 1-2, Memorandum for Petitioner, June 8, 1960; page 65, CTA records.)

In the petition for review filed with this Court on November 7, 1956, petitioner assailed the validity of the seizure and forfeiture of the articles in question on the grounds that the Collector of Customs of Manila had no jurisdiction over the said articles, criminal cases having been filed against petitioner and one Lim Ho for violation of the Central Bank Act (Rep. Act No. 265) in the Court of First Instance of Rizal, which acquired jurisdiction over said articles, and may not therefore be the subject of seizure proceedings before the Collector of Customs; that the gold bars, dollar bills and checks in question are not merchandise within the meaning of Section 1363(f) of the Administrative Code; that Circulars Nos. 20, 21, 42 and 55 of the Central Bank are invalid because they have not been approved by the President; that assuming that said Circulars were approved by the President, the Central Bank has no power to issue the same; and that assuming that Republic Act No. 265 authorizes the Central Bank to issue said Circulars, the same is invalid because such authority can not be legally delegated by Congress to the Central Bank.

It may be stated that the seizure proceeding was instituted in the Bureau of Customs on November 15, 1954, while the criminal proceedings in the Court of First Instance of Rizal against petitioner and Lim Ho (Criminal Cases Nos. 5161 and 5162) were instituted on November 16 and 17, 1954. The gold bars, dollar bills and checks were not presented in evidence in the criminal cases but were retained in the Bureau of Customs and were there presented in evidence in the seizure proceeding.

Petitioner and Lim Ho were convicted for violation of the Central Bank Act in Criminal Cases Nos. 5161 and 5162. At the same time, the Court of First Instance of Rizal ordered the forfeiture of the gold bars, dollar bills and checks. On appeal, the Supreme

Court affirmed the order of conviction, but reversed the portions of the decisions of the lower court ordering the forfeiture of the said articles, on the ground that the same were not presented in evidence in the criminal cases. (People v. Lim Ho and Rafael Koa, G. R. Nos. L-12091 and L-12092, January 28, 1960.)

Apparently in view of the conviction of petitioner for violation of the Central Bank Act, in relation to Central Bank Circulars Nos. 20, 21, 42 and 55 (People v. Lim Ho and Rafael Koa, supra), and of the settled doctrine that gold bars, dollar bills and checks are merchandise, within the meaning of the Customs Law, which are subject to forfeiture if they are imported or exported without compliance with the licensing requirements of the Central Bank, petitioner has abandoned the issues raised in his appeal. He maintains, however, that since the articles in question were not introduced and offered in evidence in this Court, it "has no jurisdiction to decree the confiscation and forfeiture of the articles above referred to." (Pages 2-5, Memorandum for Petitioner.)

From the evidence of record, it appears that the articles in question were presented in evidence in Seizure Identification No. 2194 before the Collector of Customs of Manila. (See Exh. B, pp. 31-33; pp. 52-54, Vol. I, Customs records.) Accordingly, the Collector of Customs acquired jurisdiction over said articles. This has been confirmed by the Supreme Court in G. R. Nos. L-12091 and L-12092 from which we quote:

> "However, the Solicitor General has called the attention of this Court to the fact that the gold bars and United States securities in question were seized by officers of the Bureau of Customs under Seizure Identification No. 2194 on 15 November 1954 (now pending appeal in the Court of Tax Appeals, C.T.A. Case No. 326), whereas these criminal proceedings were filed in the Court of First Instance of Rizal on 16 November 1954. As the Collector of Customs has acquired prior jurisdiction over the gold bars and securities in question, and they were not introduced as evidence in the criminal proceedings, those parts of the judgments ordering their forfeiture in favor of the Government should be stricken out." (Exh. D-1, page 82, CTA records.)

The Collector of Customs having acquired jurisdiction over said articles, and there being no question now as to the regularity of the proceeding had in the forfeiture case, the decree of forfeiture in Seizure Identification No. 2194 is in order. Neither has any question been raised as to the regularity of the affirmance by the Commissioner of Customs (which is the decision appealed from in the instant case) of the order of forfeiture issued by the Collector of Customs. The case has come to us on appeal from the decision of the Commissioner of Customs, and all that concerns us is whether or not the decision appealed from is in order. We find nothing to justify reversal of respondent's decision.

DECISION -
C.T.A. CASE NO. 326

IN VIEW OF THE FOREGOING, the decision appealed from is affirmed, with costs against petitioner.

SO ORDERED.

Manila, August 27, 1960.

ROMAN M. UMALI
Associate Judge

WE CONCUR:

MARIANO NABLE
Presiding Judge

AUGUSTO M. LUCIANO
Associate Judge

Not appealed