REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

CARIDAD CAPISTRANO,
Petitioner,

June 4, 1956

- versus - C.T.A. Case No. 174

COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is a petition to review the decision on appeal of the respondent Commissioner of Customs in Manila Seizure Identification No. 2793, affirming the decision of the Collector of Customs for the Port of Manila which ordered and decreed the forfeiture of the one hundred (100) pieces Philippine peso bills at P50.00, seventeen (17) pieces U. S. dollar bill at $20.00 1 U.S. dollar bill at $10.00 belonging to the petitioner Caridad Capistrano on the ground of alleged violation of Circulars Nos. 37 and 20 as implemented by Circualr No. 42 as amended by Circular No. 55, all of the Central Bank, in relation to section 1363 (f) of the Revised Administrative Code.

From the stipulation of facts submitted by the parties, it appears that the petitioner, who was scheduled to leave for Hongkong, had a license from the Central Bank to bring with her $200.00, $50.00 of which was in cash and the balance in traveller's check. On March 31, 1955, and before the petitioner was able to board the plane for Hongkong, she was subjected to customary search by an agent of the Bureau of Customs in the Airport at Nichols Field, Rizal, and the money bills, consisting of 100 pieces Philippine peso bills at ₱50.00, 17 pieces U. S. dollar bills at $20.00, and 1 piece U. S. dollar bill at $10.00, were found in her person. The money bills were seized for alleged violation of Circulars Nos. 37 and 20 as implemented by Circular No. 42 as amended by Circular No. 55, all of the Central Bank, in relation to Section 1363 (f) of the Revised Administrative Code.

After the seizure proceedings, and on May 5, 1955, the Collector of Customs for the Port of Manila rendered a decision ordering and decreeing the forfeiture of the money bills in question. From this decision, the petitioner appealed to the respondent Commissioner of Customs, who affirmed the same in a decision on appeal dated July 29, 1955. Hence, on August 17, 1955, the petitioner filed a Petition for Review before this Court.

The proper determination and disposition of this case hinges upon the issue of whether or not the money bills in question are subject to forfeiture under the provisions of Central Bank Circulars Nos. 37 and 20 as implemented by Circular No. 42 as amended by Circular No. 55 in relation to Section 1363 (f) of the Revised Administrative Code. The pertinent provisions of these Central Bank Circulars are reproduces below:

Circular No. 37:-

"Sec. 3. The following shall also be held liable within the meaning of this Circular:

"(a) Any outgoing passenger already booked and ready to leave the country found having in his person or among his luggage, at the airport or piers, an amount exceeding ₱100.00 or Philippine coins exceeding ₱5.00 when no license has been previously obtained for the excess amount."

Circular No. 20:-

"4. (a) All receipts of foreign exchange shall be sold daily to the Central Bank by those authorized to deal in foreign exchange. All receipts of foreign exchange by any person, firm, partnership, association, branch office, agency, company or other unincorporated body or corporation shall be sold to the authorized agents of the Central Bank by the recipients within one business day following the receipt of such foreign exchange. x x x."

Circular No. 42:-

"Sec. 3. The following shall also be held liable within the meaning of the prohibition of exportation of securities and foreign exchange unless proper license has been obtained from the Central Bank:

"(a) Any passenger leaving the Philippines found in his possession of any securities or foreign exchange in any form, whether such securities or foreign exchange are found in his person or among his luggage or in any article taken by him at the piers or airports or at any other point of embarkation.

x x x x

"Sec. 4. (a)

"(b) Philippine residents leaving the Philippines for abroad shall, upon departure, declare all Philippine currency, foreign exchange and securities of whatever nature carried by them on E. C. Form No. 304. x x x"

Circular No. 55:

"Sec. 1.

"Section 4 of Circular No. 42 dated May 21, 1953 of the Central Bank is hereby amended to reas as follows:

"Sec. (a) x x x x

"(b) Philippine residents leaving the Philippines for abroad shall, upon departure, surrender to the representatives of the Central Bank at the pier or airport of departure their copies of the foreign exchange Control Department or by an Authorized Agent of the Central Bank of the Philippines. If the departing resident is not carrying foreign exchange at the pier or terminal of departure his copy of his exexemption certificate from the requirement to possess foreign exchange license for travel prior to the sale of passage tickets in peso currency."

The petitioner contends that the forfeiture of the money bills in question is not authorized by Central Bank Circular No. 37 in relation to Section 34 of Republic Act No. 265. Accordingly, forfeiture, not being expressly provided therein, the same cannot be presumed.

We agree with the petitioner's contention that neither Central Bank Circular No. 37 nor Republic Act No. 265 expressly prescribes the penalty of forfeiture. Likewise, said Circulars Nos. 20, 42 and 55 do not expressly provide~~s~~ for a penal forfeiture.

For a clear understanding of the resolution of this Court on the issue raised by the parties, we find it necessary to digress on the philosophy upon which Central Bank Circulars Nos. 37, 20, 42 and 55 are rooted. These Circulars have for their source of authority Republic Act No. 265. This Act imposes upon the Central Bank the duty of using the powers granted to it under this Act to achieve the following objectives: (a) to maintain the monetary stability in the Philippines; (b) to preserve the international value of the peso and the convertibility of the peso into other freely convertible currencies; and (c) to promote a rising level of production, employment and real income in the Philippines. These objectives are national policies enunciated by Congress. Their proper achievement and implementation are lodged in the Monetary Board which exercises the powers and functions of the Central Bank. And to bring about the effective discharge of these powers and functions, Section 14 (a) of said Act authorized the Monetary Board to "prepare and issue rules and regulations as it considers necessary for the effective discharge of the responsibilities and exercise of the powers assigned to the Monetary Bead and to the Central Bank under this Act." It is in pursuance to this authority that Circulars Nos. 37, 20, 42 and 55 were adopted and promulgated.

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Circulars Nos. 37, 20, 42 and 55 are keyed to the achievement of the afore-recited national policies. Monetary Stability in the Philippines, the maintenance of which is a declared national policy, is inseparably interwoven with the circulation of our peso. With economic foresight and wisdom, the Central Bank regulates the circulation of the peso. It allows in circulation only sufficient amount of Philippine money, in bills or coins, in order not to disturb the stability of our currency. It is axiomatic in economics that an amount of money in circulation over or below the margin of sufficiency disturbs the stability of the peso. If more money than is necessary is allowed to circulate, inflation results. If less money circulates, deflation follows. In both cases, the people suffer from economic stress and distress.

Philippine money exported or brought outside the country is put out of local circulation. It brings down the amount of money circulating in the country below the margin of sufficiency. It causes domestic instability of the pesos which in turn produces an adverse repercussion on its international value and its convertibility into other freely convertible currencies. An instable peso freightens away other countries which either trade or want to trade with us. The Philippines is not economically self-sufficient to afford being shunned in international trade and commerce.

Philippin money exported or brought of the country still remains an obligation of our Government. The fact that it is placed outside the territorial jurisdiction of the Philippines does not free the responsibility of our Government to redeem it. Sometime, it has to be redeemed. Except in few isolated cases, the redemtion is made with foreign exchanges. Mostly, it is made with United States dollar which is the most sought for foreign exchange. It may be said that as a general mercantile practice, Philippine money found abroad is discounted against our dollar reserve. It drains our dollar reserve.

Finally, Philippine money exported or withdrawn from local circulation frustrates the declared national policy of promoting a rising level of production, employment and real income in the Philippines. It cannot be invested to generate new industries or operate old ones in the country. It cannot be availed of to lend promotion to a higher level of employment and, consequently, of real income in the country. It is for these compelling economic reasons and necessities that Central Bank Circulars Nos. 37 and 42 were conceived and issued. These circulars restrict the exportations of Philippine bills and coins. In effect, they prohibit the exportation of Philippine money, bills or coins, in excess of that licensed and allowed by the Central Bank.

Now we come to Central Bank Circulars Nos. 20, 42 and 55. These circulars restrict the exportation or bringing outside the Philippines or foreign exchange in any form. Because of the leading, if not commanding, position of the United States in foreign markets, the American dollar has become an international tender. It is an accepted and acceptable tender on the counters of foreign markets. Countries, big or small, that transact business over the counters of foreign markets maintain their own dollar reserves. It is for this inescapable necessity that the Philippines, through the Central Bank, is committed to the policy of conserving all available dollars in order to maintain and bolster a dollar reserve of its own.

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The maintenance of a dollar reserve is intimately connected with monetary stability in the Philippines. A dent in our dollar reserve adversely affects the value, locally and internationally, of the Philippine peso. And as a corollary, a depressed or deflated value of the peso lowers the level of production, employment and real income in the Philippines.

From the foregoing digression, it appears patent and evident that the philosophy behind the adoption and promulgation of Central Bank Circulars Nos. 37, 20, 42 and 55 is to prohibit the indiscriminate and unlicensed exportation of money, local and foreign.

These circulars, having been issued pursuant to Republic Act No. 265, have the force and effect of law according to settled jurisprudence. (See People v. Qua Po Lay, No. L-6791, March 29, 1954, 50 O.G. 4850, citing U. S. v. Tupasi Molina, 29 Phil. 119 and authorities therein cited.)

We shall now determine whether or not the paper money in question may legally be subject to forfeiture in relation to Section 1363 (f) of the Revised Administrative Code. Said codal provision provides:

> "SEC. 1363. Property subject to for feiture under customs laws.- Vessels, cargo merchandise, and other objects and things shall, under the conditions hereinbelow specified, be subject to forfeiture:
>
> x x x x
>
> "(f) Any merchandise of prohibited importation or exportation, the importation or exportation of which is effected or attempted contrary to law, and all other mer-

> chandise which, in the opinion of the Collector, have been used, are or were intended to be used as instrument in the importation or exportation of the former."

On this point, the Petitioner contends that the paper money in question cannot be forfeited because it is not merchandise. In this connection, we wish to point to the provision of Section 1419 of the Revised Administrative Code which reads:

> "SEC. 1419. Words and phrases defined.- Words and Phrases used in this chapter shall be taken in the sense defined below:
>
> x x x x
>
> "'Merchandise' when used with reference to importations or exportations, includes goods, wares, and in general anything that may be the subject of importation or exportation."

In the light of the above-quoted codal definition, we make the observation that United States dollar bills are merchandise. They have ceased to be legal tender in the Philippines. However, as we have herein previously intimated, they are greatly in demand in local, as well as in foreign markets. Like any other merchandable commodities, they are sold and bought. They may be made the subject of importation and exportation. They are merchandise within the contemplation of Sections 1419 and 1363 (f) of the Revised Administrative Code. Their attempted exportation in violation of Central Bank Circulars Nos. 20, 42 and 55 makes them subject to forfeiture in relation to said section 1363 (f).

But, we entertain a different view and observation with respect to Philippine money. We believe, and we are constrained to rule that Philippine peso bills cannot be accorded the category of merchandise at least in the Philippines. They are not goods for wares that can be the subject of purchase and sale. They cannot be the subject of importation or exportation. We find no authority and justification for holding them forfeiture under the provision of Section 1363 (f) of the Revised Administrative Code, or even under any other law. We cannot decree their forfeiture for "The Court cannot create penalties and forfeitures by implication. They must be found in the plain letter of the law, and not raised by interference and construction." (An Ullage Dox of Sugar, Fed. Case No. 14, 324.)

It appears to us that in the attempted exportation of the Philippine money bills in the instant case, a violation of Central Bank Circulars Nos. 37, and 42 has been committed. In pursuance to Section 17 of Republic Act No. 1123, we refer this matter to the proper department, bureau or office for investigation and the institution of a criminal action under Section 34 of Republic Act No. 265 against petitioner Caridad Capistrano, if the facts and curcumstances of the case may warrant.

The petitioner's contention that the U. S. dollar bills in question cannot be forfeited because their

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exportation was merely attempted is untenable. Section 1363 (f) of the "evised Administrative Code specifically and expressly ordains the forfeiture of "any merchandise of prohibited x x x exportation, the x x x exportation of which is effected or attempted contrary to law . . . "

WHEREFORE, the decision on appeal of the respondnet Commissioner of Customs is hereby modified in the sense that we decree the forfeiture in favor of the Government of the seventeen (17) pieces U. S. dollar bills at $20.00 and the one (1) piece U. S. dollar bill at $10.00, and the release to the petitioner Caridad Capistrano the one hundred (100) pieces Philippine peso bills at ₱50.00 in question.

Let copies of this decision be furnished the Governor of the Central Bank of the Philippines and the Privincial Fiscal of Rizal, through the Secretary of Justice, for whatever action said officials may deem proper to take in the premises.

SO ORDERED.

Manila, Philippines, June 4, 1956.

(Sgd.) MARIANO NABLE
Presiding Judge

WE CONCUR:

(Sgd.) AUGUSTO M. LUCIANO
Associate Judge

(Sgd.) ROMAN M. UMALI
Associate Judge