REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

SAMAHAN NG MGA KAPAMPANGAN SA SAN ILDEFONSO MULTIPURPOSE COOPERATIVE, SILI MULTIPURPOSE COOPERATIVE, and GREEN VALLEY UNITED COOPERATIVE, *Petitioners,*	**CTA CASE NO. 9383** Members: **UY,** *Chairperson,* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
-versus-	
COMMISSIONER OF CUSTOMS, BUREAU OF CUSTOMS, *Respondent.*	Promulgated: DEC 07 2021 1:36 p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review,[1] filed by petitioners Samahan ng mga Kapampangan sa San Ildefonso Multipurpose Cooperative ("SKSIMC"), Sili Multipurpose Cooperative ("SMC"), and Green Valley United Cooperative ("GVUC") against respondent Bureau of Customs ("BOC"), represented by the Commissioner of Customs ("COC"). It seeks to reverse, annul, and set aside respondent's Decisions, dated 4 December 2014 and 6 May 2016, both of which affirmed the Order, dated 27 January 2014, of the District Collector of the Port of Legaspi and prays that, in lieu thereof, judgment be rendered in favor of petitioners ordering the immediate release of the amount held in escrow amounting to One Hundred Fifty-Four Million Five Hundred Sixty-Six Thousand and Eight Hundred Pesos (₱154,566,800.00) which is the equivalent of the forfeited subject shipment of 94,000 bags of Vietnamese rice.[2]

[1] Division Records Vol. 1, pp. 10-144, with annexes.
[2] Division Records Vol. 2, pp. 657.

The Parties

Petitioners are cooperatives duly registered with the Cooperative Development Authority of the Philippines.[3]

On the other hand, respondent BOC is a government agency under the Department of Finance ("DOF") and is represented herein by the COC through its counsel, the Office of the Solicitor General.[4]

The Facts

Sometime in 2012, the National Food Authority ("NFA") launched its Private Sector- Financed ("PSF") Importation Program through the NFA Tax Expenditure Subsidy ("TES") (hereinafter referred to as the "2012 PSF-TES Program").[5] Pursuant to the 2012 PSF-TES Program, the NFA undertook to pay the customs duties of the rice allocations imported by qualified bidders.[6]

Under the 2012 PSF-TES Program, the NFA conducted rice bidding to farmer cooperatives/ organizations.[7]

On 18 April 2012, the NFA issued Notices of Award to petitioners notifying them that they are awarded the following import allocations under the 2012 PSF-TES Program, subject to the payment of a Service Fee, posting of a Performance Security, and entering into a contract within ten (10) calendar days from receipt of the Notice of Award as stated in the Instruction to Bidders (Item No. 19). The details of the awards are summarized below:

Recipient of Notice of Award	Import Allocation	Service Fee	Performance Security
SKSIMC[8]	1,600 MT of rice	₱16,864,000.00	₱1,000 per MT
SMC[9]	2,000 MT of rice	₱20,040,000.00	₱1,000 per MT
GVUC[10]	1,600 MT of rice	₱16,416,000.00	₱1,000 per MT

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3 Amended Pre-Trial Order, *id.*, pp. 656-671.
4 *Ibid.*
5 *Ibid.*
6 Amended Pre-Trial Order, *id.*, pp. 656-671.
7 *See* Answer Nos. 9, Judicial Affidavit of Nestor U. Puangco, Exhibit "P-57", Division Records Vol. 2, pp. 696-697.
8 Exhibit "P-11", BOC Records, p. 5.
9 Exhibit "P-42", *id.*, p. 7.
10 Exhibit "P-27", *id.*, p. 3.

As winning bidders, petitioners were also issued Notices to Proceed and Contracts for the 2012 PSF-TES Program of the NFA.[11] Petitioners then proceeded to import a total of 94,000 bags of Vietnam rice. In compliance with the Instruction to Bidders,[12] petitioners submitted importation documents to the NFA such as the bills of lading,[13] commercial invoices,[14] packing lists,[15] certificates of origin,[16] certificates of fumigation,[17] phytosanitary certificates,[18] and inspection certificates of quality, weight, and packaging of cargo.[19]

Meanwhile, on 2 September 2012, the vessel M/V Minh Tuan 68, loaded with 94,000 bags of Vietnamese rice, arrived at the Port of Legazpi City.

On 5 September 2012, the Port Area Cargo Services wrote a letter to the Bureau of Customs, Port of Legazpi, requesting the cancelation of the Manifest as the petitioners decided to unload their cargo in the Port of Manila where they have a suitable warehouse to receive their cargo.[20]

On 7 September 2012, the vessel was placed under Alert status pending verification of the requisite documents covering the importation of Vietnamese rice by the NFA.[21]

On 11 September 2012, respondent BOC issued a Warrant of Seizure and Detention against M/V Minh Tuan 68 and the 94,000 bags of Vietnam rice.[22]

To prevent deterioration, a public auction for the 94,000 bags of Vietnam rice was conducted in Legazpi fetching a price of ₱154,566,800.00.[23]

In the Warrant of Seizure and Detention, dated 11 September 2012, respondent BOC recognized the NFA as consignee for the account ("FAO") of: Ugnayang Magbubukid ng San Isidro, Inc., Malipampang Concern Citizens Multipurpose Coop, Samahan ng Magsasakang Kapampangan ng

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[11] *See* Answer Nos. 19-21, Judicial Affidavit of Nestor U. Puangco, Exhibit "P-57", Division Records Vol. 2, p. 699.
[12] Exhibit "P-1", *id.*, pp. 710-744.
[13] Exhibits "P-15", "P-46", and "P-31", BOC Records, pp. 22, 31, and 13.
[14] Exhibits "P-16", "P-47", and "P-32", *id.*, pp. 23, 32, and 14.
[15] Exhibits "P-17", "P-48", and "P-33", *id.*, pp. 24, 33, and 15.
[16] Exhibits "P-18", "P-49", and "P-34", *id.*, pp. 27, 34, and 16.
[17] Exhibits "P-19", "P-50", and "P-35", *id.*, pp. 26, 35, and 17.
[18] Exhibits "P-20", "P-51", and "P-36", *id.*, pp. 25, 36, and 18
[19] Exhibits "P-21", "P-52, and "P-37", *id.*, pp. 18, 27, and 19.
[20] Amended Pre-Trial Order, *id.*, pp. 656-671.
[21] *Ibid.*
[22] *Ibid.*
[23] *Ibid.*

Katagalogan Multipurpose Cooperative, Kapatirang Takusa Multipurpose Cooperative, and petitioner SMC.[24]

Thus, on 8 October 2012, petitioners SKSIMC and GVUC filed a *Motion for Intervention* with respondent BOC at the Port of Legazpi.[25]

On 17 October 2012, respondent BOC conducted a hearing for the seizure of the 94,000 bags of rice wherein petitioners testified that they are the true owners/ consignees of the rice shipment.[26]

Meanwhile, Ugnayang Magbubukid ng San Isidro, Inc., Malipampang Concerned Citizens Multipurpose Cooperative, Sili Multipurpose Cooperative, Samahan ng mga Magsasakang Kapampangan at Katagalogan Multipurpose Cooperative, and Kapatirang Takusa Multipurpose Cooperative, the cooperatives whose names appear in the contested bills of lading, also testified during the seizure proceeding hearing before the BOC where they denied ownership of the rice shipment.[27]

On 20 November 2012, respondent BOC issued an *Order* denying petitioners' *Motion for Intervention.*[28]

On 4 March 2013, Mr. Nestor Puangco, Division Chief of the Foreign Operations Division of the Grains Marketing and Operations Department of the NFA, testified during the seizure proceeding hearing.[29]

The seizure case was submitted for resolution after the hearing on 4 March 2013.[30]

Petitioners received a copy of the *Decision dated 27 January 2014* of the Collector of Customs of the Port of Legazpi and timely filed an appeal with respondent COC.[31]

Thereafter, the COC rendered the assailed *Decision dated 4 December 2014* denying petitioners' appeal,[32] the dispositive portion of which reads:

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[24] *Ibid.*
[25] *Ibid.*
[26] *Ibid.*
[27] *Ibid.*
[28] *Ibid.*
[29] *Ibid.*
[30] *Ibid.*
[31] *Ibid.*
[32] *Ibid.*

> "**WHEREFORE,** the Order dated 27 January 2014 of the District Collector, Port of Legaspi is **AFFIRMED *in toto.*** Accordingly, the subject shipment of Ninety Four Thousand (94,000) bags Vietnam Rice and/or its equivalent amount of Php154,566,800.00 which is currently deposited in escrow as a result of the auction conducted on August 16, 2013 at the Port of Legaspi is hereby **FORFEITED** in favour of the government.
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> SO ORDERED."[33]

Petitioners timely filed a *Motion for Reconsideration* thereto[34] which was denied in the assailed *Order dated 6 May 2016*[35] the dispositive part of which reads:

> "**WHEREFORE,** the Appellants' Motion for Reconsideration is **DENIED** for lack of merit, and the assailed Decision of the Commissioner of Customs dated 04 December 2014 is hereby **AFFIRMED in *toto*.**
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> **SO ORDERED.**"[36]

Petitioners received the assailed *Order dated 6 May 2016* on 7 June 2016.[37]

Thus, on 7 July 2016, petitioners filed the present Petition for Review.[38] Summons was thereafter issued to respondent.[39] After admitting[40] respondent's Answer,[41] the Court issued a Notice of Pre-Trial Conference on 26 May 2017.[42]

In the meantime, on 20 June 2017, respondent BOC transmitted to the Court the complete BOC Records of the case consisting of one (1) folder with 612 pages,[43] which the Court noted in its Resolution dated 6 July 2017.[44]

Thereafter, petitioners filed their Pre-Trial Brief on 17 November 2017,[45] while respondent filed its Pre-Trial Brief on 8 March 2018.[46] Subsequently, on 24 July 2018, petitioners filed a Motion for Leave/ Motion

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33 Division Records Vol. 1, pp. 35-76.
34 Amended Pre-Trial Order, *id.*, pp. 656-671.
35 *Ibid.*
36 Division Records Vol. 1, pp. 77-100.
37 Par. 26 of Petition for Review, p. 7, *id.*, p. 16.
38 *Id.*, pp. 10-144, with annexes.
39 *Id.*, p. 195.
40 *See* Motion to Admit Answer, *id.*, pp. 212-216; *See also* Resolution dated 25 May 2017, *id.*, pp. 254-156.
41 *Id.*, pp. 217-253.
42 *Id.*, pp. 257-258.
43 *Id.*, pp. 260-261.
44 *Id.*, pp. 265-267.
45 *Id.*, pp. 279-283.
46 *Id.*, pp. 291-301.

to Admit (Amended Pre-Trial Brief)[47] with attached Amended Pre-Trial Brief.[48] There being no objection from respondent, petitioners' Motion for Leave/ Motion to Admit (Amended Pre-Trial Brief) was granted, and the subject Amended Pre-Trial Brief was admitted as part of the records of the case.[49] Following the filing of both parties' Pre-Trial Briefs, the Pre-Trial Conference was held on 7 August 2018.[50]

The parties submitted their Joint Stipulation of Facts and Issues ("JSFI") on 3 September 2018.[51]

On 10 October 2018, petitioners filed a Motion to Amend (Joint Stipulation of Facts and Issues).[52] In compliance with the Court's order to comment,[53] respondent filed a Manifestation (In Lieu of Comment) deferring the resolution of petitioners' Motion to Amend to the Court's sound discretion.[54] On 24 October 2018, respondent also filed a Motion to Amend (Joint Stipulation of Facts and Issues).[55] Petitioners did not file their comment,[56] notwithstanding the Court's order to comment on respondent's Motion to Amend.[57] In the Court's Resolution dated 10 December 2018,[58] both petitioners' and respondent's Motion to Amend (Joint Stipulation of Facts and Issues) were granted.

The Court issued a Pre-Trial Order on 19 December 2018.[59] Subsequently, on 8 January 2019, petitioners filed a Motion to Correct and/or Amend Pre-Trial Order.[60] Upon order of the Court,[61] respondent filed a Manifestation (In Lieu of Comment) deferring resolution of the incident to the sound discretion of the Court.[62] On 30 January 2019, the Court granted petitioners' Motion to Correct and/or Amend Pre-Trial Order.[63] Thus on 19 February 2019, the Court issued an Amended Pre-Trial Order which governed the proceedings of the case.[64]

During trial, petitioners presented the following witnesses:

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47 *Id.*, pp. 322-324.
48 *Id.*, pp. 325-337.
49 *Id.*, pp. 379-381.
50 *Ibid.*
51 *Id.*, pp. 419-441.
52 *Id.*, pp. 454-456.
53 *Id.*, pp. 470-471.
54 *Id.*, pp. 495-498.
55 *Id.*, pp. 480-485.
56 Division Records Vol. 2, p. 502.
57 Division Records Vol. 1, pp. 487-488.
58 Division Records Vol. 2, pp. 519-523.
59 *Id.*, pp. 524-539.
60 *Id.*, pp. 545-551.
61 *Id.*, p. 552.
62 *Id.*, pp. 553-556.
63 *Id.*, pp. 620-623.
64 *Id.*, pp. 656-671.

(1) Atty. Ramon G. Cuyco,[65] former Director III of the Collection Service under the Revenue Collection and Monitoring Group of the Bureau of Customs, who testified and identified his Judicial Affidavit during the hearing on 23 May 2019;[66]

(2) Nestor U. Puangco,[67] former Division Chief of the Foreign Operations Division of the Grains Marketing and Operations Department ("FOD-GMOD") of the NFA, who testified and identified his Judicial Affidavit during the hearing on 8 August 2019;[68] and

(3) Nguyen Thuy My Hoa,[69] General Director of Nhuan Phat Trading Service and Transportation Co., Ltd., who testified and identified her Judicial Affidavit during the hearing on 8 August 2019.[70]

Petitioners formally offered their documentary evidence on 23 August 2019.[71] Respondent filed his Comment-Opposition on 6 September 2019.[72] All of petitioners' formally offered documentary evidence were admitted except for Exhibits "P-12", "P-28", "P-43", "P-82", "P-83", and "P-84" for failure to identify, Exhibit "P-14" for not being found in the records of the case, Exhibits "P-29" and"P-44" for failure to identify and to submit the originals for comparison, and "P-88" for failure to present originals for comparison.[73] The Court also noted certain discrepancies with Exhibits "P-2", "P-3", "P-4", "P-25", "P-31", "P-34", "P-49", "P-35", "P-42", "P-55", "P-76", and "P-88".[74]

Meanwhile, respondent presented the following witnesses:

(1) Rodolfo R. Merioles, Jr.,[75] former Special Agent I serving as Officer-in-Charge of the BOC's Enforcement and Security Service ("ESS") and currently a Customs Operation Officer I at the BOC, who testified and identified his Judicial Affidavit during the hearing on 26 November 2019;[76] fv

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[65] Exhibits "P-85" and "P-85-a", *id.*, pp. 565-580.
[66] *Id.*, pp. 806-807.
[67] Exhibits "P-57" and "P-57-a", *id.*, pp. 694-707.
[68] *Id.*, pp. 820-821.
[69] Exhibits "P-59" and "P-59-a", *id.*, pp. 767-775.
[70] *Id.*, pp. 820-821.
[71] *Id.*, pp. 825-859.
[72] *Id.*, pp. 861-869.
[73] *Id.*, pp. 870-873 and pp. 976-981.
[74] *Id.*, pp. 870-873.
[75] Exhibits "R-43" and "R-43-a", Division Records Vol. 1, pp. 314-319.
[76] Division Records Vol. 2, pp. 882-884.

(2) Minette M. Arcilla,[77] former Boarding Officer and Acting Chief of the Port Operations Division and currently the Chief of the Administrative Division of the BOC of Port of Legazpi,[78] who testified and identified her Judicial Affidavit during the hearing on 21 January 2020;[79] and

(3) Atty. Christopher M. Inducil,[80] Acting Chief of the Valuation and Classification Division at the Imports and Assessment Service ("IAS") of the Assessment and Operations Coordinating Group ("AOCG") of the Bureau of Customs ("BOC"), who testified and identified his Judicial Affidavit during the hearing on 18 February 2020.[81]

Respondent formally offered his documentary evidence on 3 March 2020.[82] Petitioners filed their Comment thereto on 5 June 2020.[83] On 10 June 2020, respondent filed through registered a Reply to petitioners' Comment.[84] The Court admitted all of respondent's formally offered documentary evidence, noting certain discrepancies with Exhibits "R-8", "R-14", "R-23", "R-26", "R-31" "R-15", "R-28", "R-36", "R-35", "R-44", and "R-44-a".[85]

As directed by the Court, petitioners and respondent filed their Memoranda on 14 August 2020[86] and 3 November 2020,[87] respectively.

Thereafter, the case was submitted for decision on 24 November 2020.[88] Hence, this Decision.

The Issues[89]

The issues submitted for this Court's resolution are the following:

I. Whether or not petitioners had the legal right to intervene;

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[77] Exhibits "R-44" and "R-44-a", Division Records Vol. 1, pp. 307-312.
[78] *See* Transcript of Stenographic Notes of the hearing dated 21 January 2020, pp. 5.
[79] Division Records Vol. 2, pp. 982-983.
[80] Exhibit "R-46" and "R-46-a", *id.*, pp. 904-925.
[81] *Id.*, pp. 985-986.
[82] Division Records Vol. 2-3, pp. 988-1043.
[83] Division Records Vol. 3, pp.1047-1051.
[84] *Id.*, pp. 1052-1060.
[85] *Id.*, pp. 1061-1064.
[86] *Id.*, pp. 1065-1091.
[87] *Id.*, pp. 1103-1134.
[88] *Id.*, pp. 1135-1137.
[89] *Ibid.*

II. Whether or not an import authority/ permit was necessary to cover the subject importation. Alternatively, whether or not petitioners had the authority or right to import the subject rice shipment to the Philippines;

III. Whether or not the amendment of the Bill of Lading was properly and timely made and effected;

IV. Whether or not the Bill of Lading and all its accompanying and related documents, having been issued in a foreign country, need to be authenticated; and

V. Whether or not the seizure of the rice shipments was valid and lawful. Assuming that the seizure was valid and lawful, whether or not the subject rice shipment should be forfeited in favor of the government.

Arguments of the Parties

Petitioners' Arguments[90]

Petitioners raise the following arguments in assailing respondent's Decisions and in support of their prayer to release the amount of (₱154,566,800.00) held in escrow:

First, the seizure and forfeiture of the subject shipment is void as it was conducted without formally notifying the NFA, in blatant disregard of ***Section 2303 of the TCCP***. Petitioners also claim that their constitutionally-vested right to due process was violated when respondent forfeited their properties and sold them in a public auction without allowing them to participate in the seizure and forfeiture proceedings. Petitioners point out that their claim over the subject shipment is undisputed by anyone, even NFA and the cooperatives whose names appear in the erroneous shipping documents.

Second, an import permit is not necessary when the NFA itself imports rice under its name, such as in the 2012 PSF-TES Program of the NFA. Petitioners argue that the NFA need not issue an import permit to itself as its authority to import commodities such as rice emanates from ***Section 7(c) of P.D. No. 1770 (Reconstituting the National Grains Authority to the National Food Authority, Broadening its Functions and Powers and for Other***

[90] *See* Memorandum for Petitioner, *id.*, pp. 1065-1091.

Purposes). It is thus beyond the authority of respondent to require NFA to issue an import permit to itself.

Third, ***Section 1005 of the TCCP*** allows the Master of the Vessel, consignee, or agent to amend the cargo manifest. Petitioners point out that the NFA administrator had approved its request to change the port of discharge but respondent nonetheless relied on the erroneous information found in the manifest to forfeit the cargoes.

Fourth, they have sufficiently established their ownership over the subject rice shipments by presenting the amended Bills of Lading and shipping documents. Petitioners add that they submitted in evidence letters from the NFA to respondent Customs Commissioner Roxanno Rufino Biazon informing the latter that the subject rice shipments are consigned to NFA for the account of petitioners.

Respondents' Arguments[91]

In refutation, respondent insists that it did not err in affirming the decision of the District Collector of the Port of Legazpi denying petitioners' motion for intervention. Respondent raised the following arguments in support of its decision to affirm the denial of the motion for intervention:

First, petitioners' right to due process was not violated. The parties even stipulated to the fact that petitioners testified during the hearing conducted by respondent BOC that they are the true owners/consignees of the rice shipment. Respondent argues that in the context of administrative proceedings, the due process requirement is met where every litigant is given reasonable opportunity to appear and defend his right and introduce witnesses and relevant evidence in his favor.

Second, NFA is neither the ultimate consignee nor the owner of the subject Vietnam rice. Respondent explains that the term "consignee" referred to in ***Section 1203 of the TCCP*** is neither the nominal consignee nor an intermediate one but rather an ultimate consignee or the true owner of goods. Respondent then refers to the NFA-PSF-TES Guidelines/ Instructions to Bidders which allegedly refers to importer and NFA as different entities. Respondent also contends that the caption of the case S.I. 01-2012-LEG-B shows that NFA is impleaded but only for the account of the ostensible ultimate consignees named in the bills of lading.

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[91] *See* Memorandum for Respondent, Division Records Vol. 2, pp. 248-261; *See also* Answer, Division Records Vol. 1, pp. 66-72.

Third, petitioners SKSIMC and GVUC were not named as consignees in the bills of lading and other shipping documents in possession of M/V Minh Tuan 68. Respondent reiterates that the named consignees in the bills of lading found in M/V Minh Tuan 68 were Ugnayang Magbubukid ng San Isidro, Inc., Malipampang Concerned Citizens Multipurpose Cooperative, Samahan ng Magsasakang Kapampangan at Katagalogan Multipurpose Cooperative, and Kapatirang Takusa Multipurpose Cooperative, and petitioner SMC. Respondent calls the Court's attention to the discrepancy in Bill of Lading No. 5 which is found in possession of M/V Minh Tuan 68 and supposedly shows that the share of petitioner SMC's in the 94,000 bags of rice is 16,000 whereas in the corrected Bill of Lading, petitioner SMC's share is 30,000 bags. According to respondent, the staggering discrepancy cannot be brushed off as mere mistake on the part of the exporter and that convincing evidence must be presented to prove that there was, indeed, such a mistake. Respondent insists that the petitioner's evidence is vague and does not exactly show how the "mistake" was made.

Respondent also stands by its Decision affirming the decision of the District Collector of the Port of Legazpi ordering the seizure and subsequent auction of the subject Vietnam rice in favor of the government. According to respondent, an import permit/ authority is required for all importations of rice pursuant to the ***Memorandum of Agreement between the NFA and BOC*** as implemented by ***Customs Memorandum Order No. 20-2001.***

Finally, respondent cites ***People v. Ugnayang Magbubukid, et al.***,[92] where Ugnayang Magbubukid ng San Isidro, Inc. ("Ugnayan") was found guilty of smuggling under ***Section 3601 in relation to Section 101 of the TCCP***. Respondent relies on the CTA decision which found the importation without the requisite permit/ authority from the NFA making such importation illegal. Respondent surmises that Ugnayan and the other cooperatives denied ownership over the shipment because it knew it did not have the requisite import permit from the NFA.

<u>The Ruling of the Court</u>

After a careful evaluation and consideration of the records and arguments of both parties, the Court grants the present Petition for Review.

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[92] CTA Case No. O-380, 6 December 2017.

<u>Petitioners had legal right to intervene.</u>

Petitioners contend that the seizure and forfeiture proceedings is void for not allowing them, as owners of the seized shipment, to participate or intervene in the proceedings.

Respondent disputes petitioners' contention stating that they were allowed to participate in the proceedings and were, in fact, allowed to appeal the respondent's decision.

The Court finds merit in petitioners' contention.

Petitioners SKSIMC and GVUC sought to intervene in the case before respondent BOC docketed as S.I. No. 01-2012-LEG-B filed by the *Republic of the Philippines* against *Ninety Four Thousand (94,000) Bags of Vietnam Rice* as respondent, and the *National Food Authority for the account of: Ugnayang Mangbubukid ng San Isidro Inc. Magumbali Candaba, Pampanga, Malipampang Concern Citizens Multipurpose Coop, Malimpang San Ildefonso, Bulacan, Sili Multipurpose Cooperative*[93] *Sili, Naguilan, La Union, Samahan ng mga Magsasakang Kapampangan at Katagalogan Multipurpose Cooperative Garlang, San Ildefonso, Bulacan, and Kapatirang Takusa Multipurpose Cooperative Mapaniqui, Candaba, Palawan* as consignees/ claimants.

Section 1, Rule 19 of the Rules of Court identifies who may intervene in any matter in litigation as follows:

> "SECTION 1. Who may intervene. – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding."

From the foregoing, to allow intervention, (a) it must be shown that the movant has legal interest in the matter in litigation, or is otherwise qualified; and (b) consideration must be given as to whether the adjudication of the rights of the original parties may be delayed or prejudiced or whether the intervenor's

[93] Petitioner SMC in the present case.

rights may be protected in a separate proceeding or not.[94] Both requirements must concur, as the first is not more important than the second.[95]

As to the *first element,* legal interest is such interest that is direct and immediate in character so that the intervenor will either gain or lose by the direct legal operation of the judgment.[96] The interest must be actual and material, a concern which is more than a mere curiosity or academic or sentimental desire; it must not be indirect and contingent, indirect and remote, conjectural, consequential, or collateral.[97]

The first element is satisfied in the present case. Petitioners SKSIMC and GVUC claim to be the owners of the goods subject of the seizure proceedings. In support of their claim, they presented Notices of Award from the NFA and other shipping documents covering the subject goods. Thus, petitioners SKSIMC and GVUC has actual interest in the proceedings and stand to lose the goods they claim to own should seizure ensue.

The *second element* is also present in this case. During the seizure and forfeiture proceedings, there was no showing that adjudication of the rights of the original parties may be delayed or prejudiced. In fact, the original claimants/consignees denied ownership over the subject goods while it is only petitioners who claimed ownership over the goods. Moreover, petitioners had no other remedy but to intervene in the seizure and forfeiture proceedings if they were to protect their rights over the goods.

Indeed, petitioners SKSIMC and GVUC had the right to intervene in the seizure proceedings which includes, among others, the right to a hearing and present evidence in support of its case.

Respondent's argument that the fact that petitioners were able to move for intervention and proffer arguments and evidence in support of the same as well as argue at length for the reconsideration of its denial by the Port is due process at work is untenable.

As clearly enunciated in ***Barroso v. Commission on Audit***,[98] the mere filing of a motion for reconsideration does not cure due process defects, to wit: h

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[94] Republic v. Rubin, G.R. No. 213960, 7 October 2020.
[95] *Ibid.*
[96] Republic v. Rubin, G.R. No. 213960, 7 October 2020.
[97] *Ibid.*
[98] G.R. No. 253253, 27 April 2021 citing Fontanilla v. Commissioner Proper, G.R. No. 209714, 21 June 2016.

The **mere filing of a motion for reconsideration does not cure due process defects, especially if the said motion was filed precisely to raise the issue of violation of the right to due process and the lack of opportunity to be heard on the merits.** This was the Court's pronouncement in *Fontanilla v. Commissioner Proper* which bears a similar set of facts as here.

In *Fontanilla,* petitioner Dr. Fontanilla was the Division Superintendent of the Department of Education (DepEd)-South Cotabato, with Special Disbursing Officer Luna Falcis (Falcis) under his supervision. On August 30, 2007, Falcis and a co-worker went to Landbank-Koronadal City to encash a P313,024.50 check to defray DepEd-South Cotabato's expenses. On their way back to their office, however, three (3) men blocked their path, held them at gunpoint and grabbed the envelope containing the money before speeding away on a motorcycle. The COA Audit Team Leader investigated the incident and found that Falcis failed to observe extra care and due diligence in handling the money. The COA Regional Office sustained these findings. Despite repeated requests, Falcis was not relieved from accountability. Falcis' plea eventually got elevated to the Adjudication Settlement Board which affirmed her liability and held Dr. Fontanilla solidarily liable with her for the stolen amount. Dr. Fontanilla moved to intervene in the proceedings, arguing that his right to due process was violated. He claimed he was not given due notice, nor ordered to participate in the proceedings, or given the chance to present his side. The COA Proper treated Dr. Fontanilla's motion for intervention as an appeal which allegedly equated to an opportunity to be heard, the very process he was supposedly asking for.

The Court reversed the ruling of the COA Proper in *Fontanilla*, thus:

> While we have ruled in the past that the filing of a motion for reconsideration cures the defect in procedural due process because the process of reconsideration is itself an opportunity to be heard, this ruling does not embody an absolute rule that applies in all circumstances. **The mere filing of a motion for reconsideration cannot cure the due process defect, especially if the motion was filed precisely to raise the issue of violation of the right to due process and the lack of opportunity to be heard on the merits remained.**
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> In other words, if a person has not been given the opportunity to squarely and intelligently answer the accusations or rebut the evidence presented against him, or raise substantive defenses through the proper pleadings before a quasi-judicial body (like the COA) where he or she stands charged, then a due process problem exists. **This problem worsens and the denial of his most basic right continues if, in the first place, he is found liable without having been charged and this finding is confirmed in the appeal or reconsideration process without allowing him to rebut or explain his side on the finding against him.**

> ...
>
> Contrary to the COA's posturing, it did not pass upon the merit of Dr. Fontanilla's claim that he was denied due process. Instead of asking Dr. Fontanilla to explain his side (by allowing him to submit his memorandum or calling for an oral argument as provided under Rule X, Section 3 of the COA Rules of Procedure), **the COA concluded right away that the motion for intervention, exclusion, and reconsideration had effectively cured the alleged denial of due process. The COA failed or simply refused to realize that Dr. Fontanilla filed the motion <u>precisely for the purpose of participating in the proceedings to explain his side.</u>**
>
> ...
>
> In the present case, not only did the COA deny Dr. Fontanilla's plea to be heard, it proceeded to confirm his liability on reconsideration without hearing his possible defense or defenses." (Emphasis and Underscoring, Ours)

Similar to the present case, petitioners SKSIMC and GVUC's right to due process was violated when they were denied participation in the seizure proceedings over the shipment where they claim ownership. The fact that they were allowed to file a motion for intervention and a motion for reconsideration did not cure the denial of their right to due process.

On this basis alone, the seizure and forfeiture proceedings over the subject goods is rendered invalid.

<u>Petitioners had authority to import the subject rice shipments.</u>

The subject goods were seized for lack of import permit. The Warrant of Seizure and Detention[99] states that respondent considered the subject importations as contrary to law and subject to seizure because it is the Import Authority which legitimizes the importation of the 94,000 bags of Vietnam rice which petitioners failed to present. The Warrant of Seizure and Detention pertinently reads:

> "**WHEREAS,** on September 8 2012, BOC Legazpi gave notice to **the agent of the ship to produce the requirements covering said importation of rice more specifically the IMPORT AUTHORITY from the National Food Authority; with a warning that failure to do so until September 10,** 2012 at 12NN, BOC Legazpi will be constrained to seize the vessel and her cargo;

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[99] Exhibit "P-9", BOC Records pp. 539-541.

> **WHEREAS,** on the date of the deadline September 10, 2012, Notice of Award and Notice to Proceed purported[ly] *(sic)* issued by NFA were presented to Customs not the IMPORT AUTHORITY as directed.
>
> **WHEREAS,** until this date the IMPORT AUTHORITY legitimizing the importation of the 94,000 bags Vietnam Rice has not been presented to customs, the importation of which is contrary to law subject to seizure;"

The fact that seizure was based primarily on the lack of import permit was confirmed by respondent's witness, Mr. Rodolfo Merioles, who answered the clarificatory question in this wise:[100]

> JUSTICE SAN PEDRO:
> And the seizure was based on your discovery that there was no importation permit?
>
> A: Yes, Your Honors.

Petitioner claims that an import permit is not necessary because under the 2012 PSF-TES Program of the NFA, it is the NFA that itself that imports rice under its name. According to petitioner, NFA's power to import commodities such as rice emanates from ***Section 7(c) of P.D. No. 1770.***

Meanwhile, respondent insists that the ***Memorandum of Agreement between the NFA and BOC*** as implemented by ***Customs Memorandum Order No. 20-2001*** requires an import permit for all importations of rice.

For proper resolution of this issue, the Court deems it proper to define an import permit. An import permit refers to any written certificate issued by the concerned authority stating the volume of consignment.[101] This includes the minimum access volume (MAV) import certificate, Sanitary and Phytosanitary (SPS) Import Clearance, Clearance for the Release of Imported Sugar, or any other equivalent document issued for the importation of Agricultural Products.[102]

As respondent points out, ***Customs Memorandum Order No. 20-2001***,[103] which further implements the Memorandum of Agreement between the NFA and the BOC, requires that the import permit/ authority to specify the following information:

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[100] *See* Transcript of Stenographic Notes for the hearing on 26 November 2019, p. 18.
[101] Section 3 (3.6) of the Customs Memorandum Order No. 002-17 (Rules and Regulations Implementing **Republic Act No. 10845 Otherwise Known as Anti-Agricultural Smuggling Act of 2016).**
[102] *Ibid.*
[103] Rules and regulations on the importation of rice and coastwise movement of rice shipment to further implement the Memorandum of Agreement between the Bureau of Customs and National Food Authority.

i. Volume of rice
ii. Type and brand
iii. Country source and supplier in that country
iv. Importer/consignee
v. Carrying vessel

A perusal of the shipping documents would show that all of the foregoing information can be found in the documents submitted by petitioners. The information based on the shipping documents are summarized below:

	SKSIMC[104]	**SMC**[105]	**GVUC**[106]
Volume of Rice	32,000 bags; 1,600MT	30,000 bags; 1,500MT	32,000 bags; 1,600MT
Type and Brand	Vietnamese Long Grain White Rice 5% Broken; Vietnamese Long Grain White Rice 10% Broken	Vietnamese Long Grain White Rice 10% Broken; Vietnamese Long Grain White Rice 15% Broken; Vietnamese Long Grain White Rice 25% Broken	Vietnamese Long Grain White Rice 5% Broken; Vietnamese Long Grain White Rice 25% Broken
Country Source and Supplier in that Country	Vietnam; Vietnam Southern Food Corporation	Vietnam; Vietnam Southern Food Corporation	Vietnam; Vietnam Southern Food Corporation
Importer/ Consignee	NFA FAO SKSIMC	NFA FAO SMC	NFA FAO GVUC
Carrying Vessel	M/V Minh Tuan 68	M/V Minh Tuan 68	M/V Minh Tuan 68

In response to the clarificatory questions propounded by Associate Justice Ma. Belen M. Ringpis- Liban, petitioner's witness, Nestor U. Puangco, testified that there is nothing in the Instruction to Bidders,[107] a document which serves as guidelines to the winnings bidders to the 2012 PSF-TES Program of the NFA, that requires the winning bidders to secure an import permit:[108]

ASSOC. SOL. CEBRIAN
Q: I was asking the good witness to point where in this document that you identified, the Instruction to Bidders, where was it stated that no import permit is required to release the rice shipment?

[104] Exhibits "P-15", "P-16", "P-17", "P-20", "P-19", "P-18", and "P-21", BOC Records, pp. 22-29.
[105] Exhibits "P-46", "P-47", "P-48", "P-49", "P-50", "P-51", and "P-52", *id.*, pp. 31-39.
[106] Exhibits "P-31", "P-32", "P-33", "P-34", "P-35", "P-36", and "P-37", *id.*, pp. 13-20.
[107] Exhibit "P-1", Division Records Vol. 2, pp. 710-744.
[108] *See* Transcript of Stenographic Notes on the hearing held on 8 August 2019, pp. 22-23.

JUSTICE LIBAN

In the other way around, is there anything in that guidelines which says that the import permit is required to file an import entry, it can be either way, would you agree?

ASSOC. SOL. CEBRIAN

Yes, Your Honors.

JUSTICE LIBAN

So **take a look at the guidelines and tell us if there is anything in that guideline which states that the import permit is required to file an import entry to release the rice shipment from the Bureau of Custom**s? So, is there anything that says import permit is required?

MR. PUANGCO

A: Your Honor, as far as I can recall here...

JUSTICE LIBAN

If there is none, then just tell us if there is nothing in the guidelines states that the import permit is required.

MR. PUANGCO

A: **I cannot see a sentence or something like that in the instruction to bidders that says that import permit is needed for the importation of this.** (Emphasis, Ours)

From the foregoing, the importation documents provided in the present case are sufficient proof of lawful importation. This makes respondent's seizure of the subject rice shipment solely on the basis of lack of import permit invalid.

Even assuming the foregoing importation documents are not sufficient to establish lawful importation, it is the duty of the NFA to advise the BOC on all incoming shipments. The Instructions to Bidders[109] categorically provides that the duty to inform the BOC on incoming shipment lies with the NFA. It reads:

> "23.4 The NFA shall facilitate filing of the necessary customs entry on said importation thru the use of NFA TES.
>
> ...
>
> 23.6. The NFA shall advise the Bureau of Customs (BOC) on the incoming shipment/s for the account of the bidder, the assigned discharging port and the estimated time arrival (ETA) of the vessel."

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[109] Exhibit "P-1", Division Records Vol. 2, pp. 710-744.

In response to the clarificatory questions propounded to respondent's witness, Ms. Minette Arcilla, she stated that under the supposed Memorandum of Agreement between the NFA and the BOC, it is the duty of the NFA to submit an import permit to the BOC:[110]

JUSTICE SAN PEDRO
The memorandum you mentioned the agreement between the NFA and the BOC, correct?

A: Yes, Your Honors.

Q: Under the terms of that memorandum, whose obligation was it to submit the import permit? Was it the NFA as a party to the agreement?

Witness: Yes, Your Honors. NFA or the importer.

JUSTICE SAN PEDRO:
There was no specific mentioned because in the agreement NFA appears to be the importer all the time?

Witness: Yes, Your Honors.

...

JUSTICE SAN PEDRO:
So, it should be NFA under the Memorandum of Agreement?

A: Yes, Your Honors.

JUSTICE SAN PEDRO:
It is not binding upon third parties like those for the account of? Because they are not parties to that memo?

A: Yes, Your Honors.

Clearly from the foregoing, insofar as petitioners are concerned, the obligation to advise the BOC of all incoming shipments lies with the NFA.

There were also no lost collections of customs duties on the part of respondent considering that the customs duties for the shipment was paid by the NFA.

In fact, NFA issued various Memorandum of Undertaking to the BOC wherein it undertook to settle the corresponding duties and taxes on the rice shipment in favor of SKSIMC,[111] GVUC,[112] and SMC[113] with the BOC to be

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[110] *See* Transcript of Stenographic Notes during the hearing held on 21 January 2020, pp. 20-21.
[111] Exhibit "P-23", BOC Records, p. 45.
[112] Exhibit "P-39, *id.*, p. 41.
[113] Exhibit "P-54", *id.*, p. 49

funded from the Tax Expenditure Subsidy appropriation of the NFA in the General Appropriation Act.

When asked to differentiate the WTO program from the 2012 PSF-TES Program of the NFA, petitioners' witness Nestor U. Puangco testified as follows:[114]

> MR. PUANGCO
> Under the program under the WTO requires the importer or the private sector to pay the duties and taxes of the Bureau of Customs and this one, the PSF-TES is under the Tax Expenditure Subsidy of the NFA, so it is subsidized by NFA.
>
> ATTY. VILORIA
> Q: You mentioned that the NFA-TES was subsidized by the NFA?
>
> MR. PUANGCO
> A: Yes, sir.
>
> ATTY. VILORIA
> Q: If the Customs' duties for some reason are not paid, what will happen to the shipment and how will government be paid for those Customs' duties?
>
> MR. PUANGCO
> A: You referred to?
>
> ATTY. VILORIA
> PSF.
>
> MR. PUANGCO
> A: I think it should be paid because it is automatically debited to the NFA Tax Expenditures Subsidy.
>
> JUSTICE LIBAN
> So the NFA is the one who technically pays the Customs' duties?
>
> MR. PUANGCO
> Yes, Your Honor.

---

[114] *See* Transcript of Stenographic Notes during the hearing held on 8 August 2019, pp. 26-27.

Petitioners offered convincing explanation for the corrections in the bills of lading.

Petitioners claim that they are the real owners of the subject shipment. Petitioners explain that the discrepancy in the Bills of Lading and other importation documents found in M/V Minh Tuan 68 is out of utter mistake on the part of the shipping agent who prepared the Bills of Lading.

Respondent disputes petitioners SKSIMC and GVUC's claim stating that they are not named as consignees in the Bills of Lading.[115] Respondent further points out that the Port of Legazpi is the port of destination stated in other documents presented by the crew of the vessel. These documents include Port Clearance,[116] Load Port Survey Reports issued by the NFA,[117] Crew List,[118] E2M Manifest dated 5 September 2012,[119] Stowage Plan,[120] Passenger List,[121] Ship's Store Declaration,[122] Memory Voyage List,[123] and Inward Foreign Manifest.[124]

Thus, according to petitioners, the owners of the shipment are Kapatirang Takusa Multipurpose Cooperative, Ugnayang Magbubukid ng San Isidro, Inc., Malipampang Concern Citizens Multipurpose Cooperative, Samahan ng mga Magsasakang Kapampangan at Katagalogan Multipurpose Cooperative, and petitioner SMC.

The Court finds for petitioner. Petitioner sufficiently established that the error or mistake was committed in good faith by the shipping agent.

In the present case, respondent seized the 94,000 bags of Vietnam rice for alleged violation of ***Section 2530 (a) (f) and (1) 3,4,5 of the TCCP***. The dispositive portion of the Warrant of Seizure and Detention reads:[125]

> "**WHEREFORE,** by virtue of the authority vested in me by law, you are hereby ordered to forthwith seize and take custody of the abovementioned vessel and the 94,000 bags of Vietnam Rice for violation of Section 2530(f) of the Tariff and Customs Code of the Philippines, as amended, as against M/V "MINH TUAN 68"; and Section 2530 *(sic)* (f) and (l)- 3, 4,and 5 of the same Code in relation to Section 101-k and the

[115] Exhibits "R-12", "R-13", "R-14", "R-15", and "R-16", Division Records Vol 3, pp. 1014-1018.
[116] Exhibit "R-5", Division Records Vol. 2, p. 1001.
[117] Exhibits "R-6", "R-7", "R-8", "R-9", and "R-10", Division Records Vols. 2-3, pp. 1002-1012.
[118] Exhibit "R-11", *id.*, p. 1013.
[119] Exhibit "R-17", *id.*, p. 1019.
[120] Exhibit "R-38", *id.*, p. 1039.
[121] Exhibit "R-39", *id.*, p. 1040.
[122] Exhibit "R-40", *id.*, p. 1041.
[123] Exhibit "R-41", *id.*, p. 1042.
[124] Exhibit "R-34", *id.*, p. 1034.
[125] Exhibit "P-9", BOC Records, pp. 530-541.

National Food Authority (NFA) law, rules and regulations, as against the 94,000 bags of Vietnam Rice."

The factual milieu of the instant case is similar to that of ***Republic v. Court of Tax Appeals***,[126] where the erroneous naming of the consignee in the bill of lading and Inward Foreign Manifest led to the forfeiture of imported goods. In the said case, the true consignee undertook remedial measures to amend the name of the consignee in the Bill of Lading and Inward Foreign Manifest when the shipper made the mistake. In affirming the findings of the Court of Tax Appeals and the Court of Appeals that the mistake was unintentional, the Supreme Court held:

> "The requisites for the forfeiture of goods under ***Section 2530(f), in relation to (1) (3-5), of the Tariff and Customs Code*** are: (a) the wrongful making by the owner, importer, exporter or consignee of any declaration or affidavit, or the wrongful making or delivery by the same person of any invoice, letter or paper — all touching on the importation or exportation of merchandise; (b) the falsity of such declaration, affidavit, invoice, letter or paper; and (c) an intention on the part of the importer/consignee to evade the payment of the duties due.
>
> . . .
>
> Fraud must be proved to justify forfeiture. It must be actual, amounting to intentional wrong-doing with the clear purpose of avoiding the tax. Forfeiture is not favored in law nor in equity. **Mere negligence is not equivalent to the fraud contemplated by law. What is here involved is an honest mistake, not even directly attributable to private respondent, which will not deprive the government of its right to collect the proper tax.** The conclusion of the appellate court, being consistent with the evidence on record and not contrary to law and jurisprudence, hardly can be overturned by this Court." (Emphasis, Ours)

In the Judicial Affidavit of Nguyen Thuy My Hoa,[127] the agent who prepared the bills of lading, she thoroughly explained how the errors were made with respect to the names of the consignees and port of destination:

Q9: Why are you familiar with this particular shipment?

A9: I personally arranged the shipping documents and the dispatch of this Shipment. I also reviewed and collated all shipping documents for this Shipment.

Most importantly, **I remember this particular shipment because our company, Nhuan Phat, made errors in the names of the consignees and port of discharge indicated in the shipping documents.**

[126] G.R. No. 139050, 2 October 2001.

[127] Exhibits "P-59" and "P-59-a", Division Records Vol. 2, pp. 767-775.

Q10: How did you find out these errors?
A10: When our office was collating shipping documents for another rice shipment intended for another group of consignees in the Philippines, I noticed that the rice inventory in the warehouse do not tally with the amount indicated in the shipping documents.

I reviewed the documents again. That is when I discovered that our office made errors in the names of the consignees indicated in the earlier set of shipping documents and also in the port of discharge. Unfortunately, the vessel carrying the rice with erroneous shipping documents has already departed Vietnam and was on its way to the Philippines.

Q11: **What caused the errors**?
A11: I remember that **there was bad weather at that time**. The **shipment was already delayed and our office was in a rush to complete the shipping documents in order to dispatch the vessel at the soonest possible time**.
...
Q13: You mentioned that there were errors in the names of the consignees. What should have been the names of the correct consignees of the shipment?
A13: They are: Samahan ng mga Kapampangan sa San Ildefonso Multipurpose Cooperative, Green Valley United Cooperative, and Sili Multipurpose Cooperative.

Q14: You also mentioned of an error in the port of discharge. So what should have been the correct port of discharge?
A14: It should have been Manila Harbour and not Legazpi.
...
Q18: How did you send copies of the correct documents?
A18: I sent them by email.

Q19: What else did you do, if any?
A20: I also requested the assistance of the shipping agent in Vietnam, Nam Long Shipping & Chartering, Co. Inc Ltd. to inform the shipowner, the ship captain, and the Philippine local shipping agent of our mistake.

During her cross-examination, she further explained the errors she committed were due to the mix up of issuance from client to client as she was catching the deadline in view of the impending bad weather:[128]

ASSOC. SOL. CEBRIAN
Q: With regard to the **subject shipping documents here, you prepared the shipping documents** pertinent to the rice shipped aboard MV Minh Tuan 68, in 2012 you prepared the documents yourself?

MS. NGUYEN THUY MY HOA
A: Yes, sir.

[128] *See* Transcript of Stenographic Notes for the hearing on 8 August 2019, pp. 43-45.

ASSOC. SOL. CEBRIAN
Q: You were saying here that you found out that there were errors in particular, Ms. Witness, how exactly, what lead to your finding out that there were apparently errors in the shipping documents already sent aboard the ship?

MS. NGUYEN THUY MY HOA
A: That is true we issued another document to the wrong one because at that time, **so many rice shipments to catch up for the deadline**. The problem, sir is **we have several clients, everything the same, it is like one supplier, they are selling to several clients to the Philippines...** so meaning, like **at that time, we mixed up issuance from this client to another client**, something like this.

ASSOC. SOL. CEBRIAN
Q: So you were also saying that not only was there a lot of... you also attributed the error to there being a bad weather at that time, I am referring to pages 4 to 5 of your judicial affidavit, questions 10 to 12, so you said here that there was a bad weather, the shipment was already delayed to begin with to the subject shipment and you were rushing to meet demands but various shipping orders if you will so this has happened in your line of business, I mean how often does this kind of error happen, that you mentioned earlier that there was a mix *(sic)*up, am I correct?

MS. NGUYEN THUY MY HOA
A: Yes, that is a correct information, **we mixed up and at that time like most of like even the owner because our company, doing by vessel and doing by container too, so we have a lot of shipments like we can issue like for daily about a hundred bills *(sic)* of lading.** So, meaning at that time, we have a big mistake like this and the problem is the supplier did not find that out too at the date that the vessel... we did not find out until after a few days, because one of my suppliers because of another route, we issued a wrong consignee to them, so they found out and after that I reviewed the document and I found out that it is a mistake already, that is why we made a new document. *(sic)*

ASSOC. SOL. CEBRIAN
Q: Does this error happen a lot?

MS. NGUYEN THUY MY HOA
A: Yes and very easy because like for example, we issued for another shipment not rice to Philippines when the consignee like ABC Company, they buy the shipment we just look the consignee like the ABC on the consignee but for the rice to Philippines, all of the rice, they showed that NFA or FAO for account of something like this and honestly, my staff and even me, we also do not know why like this because we just like the one to submit the document from the requesting from the supplier, so we do not understand why they,,, the NFA and FAO to another account, all on the rice shipment just different from the FAO so that is why very easy for my staff and even me to make the mistake. *(sic)* (Emphasis, Ours)

Petitioner then submitted in evidence the corrected shipping documents as submitted to the NFA pursuant to the Instruction to Bidders. The shipping documents are summarized below:

	SKSIMC	SMC	GVUC
Bill of Lading	"P-15"[129]	"P-46"[130]	"P-31"[131]
Commercial Invoice	"P-16"[132]	"P-47"[133]	"P-32"[134]
Packing List	"P-17"[135]	"P-48"[136]	"P-33"[137]
Certificate of Origin	"P-18"[138]	"P-49"[139]	"P-34"[140]
Certificate of Fumigation	"P-19"[141]	"P-50"[142]	"P-35"[143]
Phytosanitary Certificate	"P-20"[144]	"P-51"[145]	"P-36"[146]
Inspection Certificate of Quality, Weight and Packaging of Cargo	"P-21"[147]	"P-52"[148]	"P-37"[149]

The foregoing also explains the discrepancy in the original Bill of Lading for SMC, which states that its share is 16,000 bags of rice, whereas in the amended Bill of Lading, it is 30,000 bags of rice. According to foregoing testimony of the agent and evidence presented, the mistake arose from the mixing up of clients handled by the agent.

Petitioners' claim of ownership is further supported by the fact that the entities named in the Bill of Ladings presented during inspection denied ownership over the shipment.

During the initial seizure hearing conducted by respondent, the four (4) consignees named in the original Bills of Lading (i.e. Ugnayang Magbubukid ng San Isidro, Inc., Malipampang Concern Citizens Multipurpose Cooperative, Samahan ng mga Magsasakang Kapampangan at Katagalogan Multipurpose Cooperative, and Kapatirang Takusa Multipurpose

129 BOC Records, p. 22.
130 *Id.*, p. 31.
131 *Id.*, p. 13.
132 *Id.*, p. 23.
133 *Id.*, p. 32.
134 *Id.*, p. 14.
135 *Id.*, p. 24.
136 *Id.*, p. 33.
137 *Id.*, p. 15.
138 *Id.*, p. 27.
139 *Id.*, p. 34.
140 *Id.*, p. 16.
141 *Id.*, p. 26.
142 *Id.*, p. 35.
143 *Id.*, p. 17.
144 *Id.*, p. 25.
145 *Id.*, p. 36.
146 *Id.*, p. 18.
147 *Id.*, p. 28.
148 *Id.*, p. 27.
149 *Id.*, p. 19.

Cooperative) were each asked if they own the shipments which they denied under oath, viz:[150]

ATTY. PALOMAR:
Basically, there was an error in behalf of the forwarder. So, the listing of the Cooperatives ah, well, made a mistake and the true Consignees based on an amended BL are the three (3) Cooperatives which we listed as Intervenor. So, it's the *Sili Multipurpose Cooperative, Samahan ng Mga Kapampangan Ildefonso Multipurpose Cooperative and the Green Valley United Cooperative.* Now, this ah...

HEARING OFFICER:
Wait, wait. You are saying that the Interveners are the real owners of all shipments?

ATTY. PALOMAR:
Yes, yes and as early as September 5, Notice was sent to the NFA regarding the BL of these three (3) Cooperatives and the other four (4) Consignees never sent any communication to the NFA regarding ownership.

HEARING OFFICER:
I just would like to ask the Consignees here. Other than ah, well purportedly *Sili Multipurpose Cooperative, Green Valley United Cooperative and Samahan ng Kapampangan* na walang Tagalog, ha? Hindi sa inyo itong shipment na ito?

ATTY. VILLAR:
Can we ask them one by one, Your Honor so we can...

HEARING OFFICER:
Sige, sige.

ATTY. VILLAR:
Let's begin with **Ugnayan Magbubukid**.

HEARING OFFICER:
Q: Sainyo po ba itong shipment na ito

EMILY G. ALAABADO:
A: **Hindi po.**

HEARING OFFICER:
So there is a categorical denial from the representative of Ugnayan Magbubukid ng San Isidro, that part of the shipment is theirs. She denied it outright.

ATTY. PALOMAR:
In view of the denial I am withdrawing my appearance in behalf of...

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[150] *See* Exhibit "P-63", BOC Records pp. 224-226.

HEARING OFFICER:
So in line of this denial you are withdrawing your appearance?

ATTY. PALOMAR:
Hindi ako *Ugnayan Magbubukid.*

HEARING OFFICER:
Okay, No. 2. ***Malipampang Concerned Citizens Multipurpose****?*

CRISANTA G. REYES:
A: **Hindi po.**

HEARING OFFICER:
Q: So, you are likewise denying the shipment?
A: Opo, Sir.

HEARING OFFICER:
Well, *Sili* obviously is ah representative of *Sili Multipurpose*, do you admit na sainyo an shipment na to?

EMILIO MENDOZA:
A: Opo, Sir.

Q: ***Samahan ng Magsasakang Kapampangan at Katagalugan?***

Ina-admit ninyo po ba o deni-deny ninyo ang shipment na ito?

MAXIMO M. HERNANDEZ:
A: **Hindi po.**

Q: Iyung ***Kapatiran Takusa Multipurpose Cooperative?*** Ina-admit ninyo ba o deni-deny na sa kanila yung part of the shipment?

JUANITO DAVID:
A: **Hindi po.** (Emphasis, Ours)

In the same hearing, petitioners herein (i.e. SKSIMC, SMC, GVUC) admitted ownership over the subject shipment:[151]

HEARING OFFICER:
Well, *Sili* obviously is ah representative of ***Sili Multipurpose*****, do you admit na sainyo an shipment na to**?

EMILIO MENDOZA:
A: **Opo, Sir.**
...

[151] *See* Exhibit "P-63", BOC Records pp. 226-228.

HEARING OFFICER:
Then, well for record purposes yung *Green Valley United Cooperative* present sila dipo ba?

ATTY. PALOMAR:
Yes, Your Honor.

HEARING OFFICER:
So, yung **Green Valley United Cooperative** at yung **Samahang Ng Mga Kapampangan sa San Ildefonso**, without Katagalugan, *(sic)* ha?

MEDEL A. DELOS REYES:
Opo, Sir.

Q: **Ina-admit ninyo na sainyo itong shipment na ito?**
A: **Opo,** Sir.

HEARING OFFICER:
So, there are three (3) Cooperatives who admit to the ownership of this shipment, Prosecutor?

ATTY. VILLAR:
Your Honor, considering the denial of that Consignees I request that they be put under oath for future references. The denial be put under oath.

HEARING OFFICER:
Mag-oath kayo dito sa Stenographer. Let their respective Officers/ Representatives of the Consignees who denied the ownership of the shipment of the rice be put under oath. (Emphasis, Ours)

In contrast with the theory of respondent that the acts of petitioners were a mere afterthought, petitioners' evidence proves to be convincing and worthy of belief that they are, indeed, the true owners of the consigned goods.

Only private documents, whether issued in the Philippines or in a foreign country, need authentication.

Respondent explains that the affidavit or certificate that would establish the mistake committed and, in the process, the commercial documents appended thereto, must be authenticated by the exporter. According to respondent, in the absence of such certificate or affidavit by the supplier/ exporter of the Vietnam Rice, Vietnam Southern Food Corporation, the documents purporting to cancel the export documents in the possession of the vessel at the time of its apprehension lacks probative value.[152] It is also

[152] *See* Answer, Division Records Vol. 1, pp. 217-253.

claimed that the shipping documents issued by a foreign country must be authenticated.

The Court disagrees.

For purposes of presentation in evidence, documents are either public documents or private documents.[153] Public documents are self-authenticating and require no further authentication to be presented as evidence in court. Meanwhile, private documents offered as authentic must be authenticated pursuant to the modes recognized in ***Section 20, Rule 132 of the Revised Rules on Evidence, as amended***:

> "Section 20. Proof of private document. — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved by any of the following means:
>
> (a) By anyone who saw the document executed or written;
> (b) By evidence of the genuineness of the signature or handwriting of the maker; or
> (c) By other evidence showing its due execution and authenticity.
>
> Any other private document need only be identified as that which it is claimed to be."

Private documents, whether issued in the Philippines or in a foreign country, must be authenticated. The foreign bills of lading have been authenticated by Ms. Hoa, the agent who prepared the bills of lading and who testified that a mistake has been made. The exporter could not make an affidavit on the mistake considering that it is not the party who made the mistake nor is it the party who prepared the document.

Given the foregoing discussion, the seizure and subsequent auction of the 94,000 bags of Vietnamese Rice was clearly without legal basis.

WHEREFORE, in light of the foregoing considerations, the Petition for Review filed by petitioners is hereby **GRANTED.** The Decisions, dated 4 December 2014 and 6 May 2016, which affirmed the Order, dated 27 January 2014, of the District Collector of the Port of Legaspi are hereby **REVERSED AND SET ASIDE**. Accordingly, respondent is ordered to release to petitioners the amount held in escrow in the total amount of One Hundred Fifty-Four Million Five Hundred Sixty-Six Thousand and Eight Hundred Pesos (₱154,566,800.00) representing the value of the 94,000 bags of seized and auctioned Vietnam rice.

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[153] Section 19, Rule 132, Revised Rules on Evidence, as Amended.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

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

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice