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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE HEIRS OF CHUA NI,
Petitioners,

- versus - C.T.A. CASE NO. 758

COMMISSIONER OF CUSTOMS,
Respondent.

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Jan. 3, 1967

DECISION

Petitioners appeal from the decision of respondent dated January 27, 1960, affirming that of the Collector of Customs of Manila decreeing the forfeiture of U. S. currency bills and negotiable instruments amounting to $ 37,864.56, for alleged violation of Central Bank Circulars Nos. 20, 42 and 55, in relation to Section 1363(f) of the Revised Administrative Code.

On August 16, 1956, the claimant's predecessor in interest, Chua Ni, was scheduled to leave for Hongkong. Suspected of carrying U. S. dollar bills without license, he was accosted by joint operatives of Customs, Central Bank and NBI agents while he was at the Manila International Airpot. A search of the person of the suspect produced negative result. However, it was noticed that the shoes he was wearing were too big for his feet. Upon further investigation, U. S. dollar bills, money orders and checks of various kinds in the aggregate amount of $37,864.56 were discovered neatly wrapped with cellophane and craftily sewn inside the soles of his shoes. Consequently, the bills, money orders and checks were seized for violation of Central Bank Circulars Nos. 20, 42 and 55, in relation to Section (1363(f) of the Revised Administrative Code.

Before seizure proceedings got underway, Chua Ni died and was substituted by the herein claimants (p. 185, Customs rec.).

After the seizure proceedings, the Collector of Customs rendered on February 10, 1958 a decision ordering the forfeiture of the U. S. dollar bills, money orders and checks amounting to $37.864.56 in favor of the Government (pp. 82-84, Customs rec.). This decision was affirmed by respondent on January 27, 1960. Not satisfied, petitioners appealed the case to this Court.

In his answer, respondent raised as one of his special and affirmative defenses the question of jurisidction, contending that the petition for review was filed beyond the thirty-day period prescribed in Section 11 of Republic Act No. 1125.

Subsequently, petitioners filed a motion to set aside the decision of respondent and to dismiss the forfeiture proceedings on the ground that with the repeal by Central Bank Circular No. 133 of Circular No. 20, which was implemented by Circular No. 42 and later amended by Circular No. 55, the liabilities incurred thereunder have abated (pp. 28-35, CTA rec.).

In a resolution dated December 10, 1962, this Court held in abeyance the resolution of the motion to set aside the decision of respondent and to dismiss the forfeiture proceedings, the same to be considered in the decision of the case on the merits.

This case was submitted for decision solely on the basis of the pleadings and the customs records.

The issues raised for our determination in this case are:

(1) Whether or not this Court has jurisdiction over the instant appeal; and

(2) Whether or not the articles in question are subject to forfeiture.

As regards the first issue, the records show that petitioners received a copy of the decision of respondent on January 29, 1960 (p. 15, Customs rec.). On February 26, 1960, petitioners filed a motion for reconsideration (pp. 11-23, Customs rec.), which was denied by respondent in an order dated March 9, 1960 (p. 7, Customs rec.). A Copy of the order of denial was served on petitioners on the same date (p. 3, Customs rec.). On March 12, 1960, petitioners filed the instant petition for review (p. 1, CTA rec.).

Counting the number of days from January 29, 1960 to March 12, 1960 and discounting the interruption occasioned by the motion for reconsideration, only thirty (30) days had elapsed. Hence, we find that the appeal is within the period prescribed by Republic Act No. 1125.

We now come to the second issue. The legality of the forfeiture is contested on the ground that Central Bank Circulars Nos. 20, 42 and 55 were not issued in accordance with law, hence, they are null and void. It is also argued that even assuming arguendo, that the aforementioned circulars were legally issued by the Monetary Board, the penalty is not forfeiture but the penalty provided in Section 34 of the Central Bank Act (Republic Act No. 265) which cannot be legally imposed by the Bureau of Customs.

We had an occasion to pass upon a similar issue. In the case of Caridad Capistrano v. Commissioner of Customs, C.T.A. No. 174, June 4, 1956, affirmed on this issue in G. R. No. 11075, June 30, 1960, this Court held:

> "Now we come to Central Bank Circulars Nos. 20, 42 and 55. These circulars restrict the exportation or bringing outside the Philippines of foregin exchange in any form. Because of the leading, if not commanding, position of the United States in foreign markets, the American dollar, of all the various foreign exchanges, is the most in demand. Actually, though not legally, 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.

"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 levelof production, employment and real income in the Philippines.

"From the foregoing degression, 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. Que Po lay, No. L-6791, March 29, 1954, 50. O. G. 485(, citing U.S. v. Tupasi Molina, 29 Phil. 119 and authorities therein cited.)

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". . .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 merdhantable 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

We find no reason to depart from the above-quoted ruling.

Petitioners' contention that Central Bank Circular No. 20 and the subsequent bank circulars were repealed by Central Bank Circular No. 133 has no legal basis. There is no incompatibility between Central Bank Circulars Nos. 20 and 133. The former restricts transactions in foreign exchange; the latter merely authorizes authorized agent banks to sell foreign exchange for imports.

WHEREFORE, the decision appealed from is hereby affirmed, with costs against petitioners.

SO ORDERED.

Quezon City, January 3, 1967.

(Sgd.) ROMAN M. UMALI
Presiding Judge

WE CONCUR:

(Sgd.) ESTANISLAO R. ALVAREZ
Associate Judge

(Sgd.) RAMON L. AVANCEÑA
Associate Judge