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YUPANGCO-YAMAHA MUSIC CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 2628

COMMISSIONER OF CUSTOMS,
Respondent.
x - - - - - - - - - - - - x

4/25/78

D E C I S I O N

This case, submitted on the basis of the pleadings, records of the Bureau of Customs and memoranda of the parties, involves the forfeiture of petitioner's importation of thirty (30) crates of Yamaha electronic organs and thirty (30) cases of piano parts for alleged violation of Section 2530 (m)-3 and (m)-5 of the Tariff and Customs Code, the provisions of which read:

> SEC. 2530. Property Subject to Forfeiture Under Tariff and Customs Law.- Any vessel or aircraft, cargo, articles and other objects shall, under the following conditions be subject to forfeiture:
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> x x x x x x x x x
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> m. Any article sought to be imported or exported:
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> x x x x x x x x x
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> (3) On the strength of a false declaration of affidavit executed by the owner, importer, exporter or consignee concerning the importation or exportation of such articles;

> (5) Through any other fraudulent practice or device by means of which such article was entered through a customshouse to the prejudice of the government.

The forfeiture was decreed by the Collector of Customs in his decision dated March 3, 1972 after joint hearings in Seizure Identification Nos. 12445 and 12446, covering the two (2) shipments, respectively, and upon appeal by petitioner, was upheld by the Commissioner of Customs on November 8, 1973. Its motion for reconsideration having been denied, petitioner, by a petition for review, sought recourse to this Court.

The following facts, as stated in the decision of the Commissioner of Customs, are not the subject of substantial controversy between the parties:

> 1. On August 11, 1971, there arrived at the Port of Manila, on board the S/S "Kousei Maru", Reg. No. 1305, thirty (30) cases of piano parts and thirty (30) crates of Yamaha Electronic Organs which were declared under Import Entry Nos. 68040 and 68038, respectively;
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> 2. That the Arresco, Inc., representing itself as a Customs broker, forwarding agent and transportation contractor presented itself to claimant and was contracted by claimant Yupangco Yamaha Music Corporation (YYMC for short) to act as its Customs broker and work for the release of the above-named items from the Bureau of Customs;
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> 3. That all the papers pertaining to the above importation were entrusted by the YYMC to the Arresco;

4. That the import entries covering the importation were prepared and signed by one Mario Maguigad, who represented himself as Executive Vice-President of the YYMC but who actually was only a Manager of the Brokerage Department of the Arresco Inc.;

5. That Maguigad made a computation of the taxes and duties due on the importation and presented this computation to the YYMC;

6. That per computation of Maguigad, the duties and taxes due on the organs was ₱38,667.00 and on the piano parts ₱35,906.00;

7. That the YYMC drew out a check in favor of the Arresco for the amount of ₱38,667.00 and ₱35,905 which the latter both cashed at the Prudential Bank. Both checks were supported by Cash Voucher Nos. 2581 and 2577, respectively;

8. That the Arresco Inc. was able to effect the release of the piano parts from the Bureau of Customs by paying only ₱6,519.00 as shown by CB O.R. No.121043-70 issued by the Prudential Bank on August 18, 1971;

9. That the electronic organs were likewise released from the Bureau of Customs by the Arresco by paying only ₱10,675.00 as shown by CB O.R. No. 121044-70 issued by the Prudential Bank on August 17, 1971;

10. That the tax due on the piano parts was reduced because of representations made by the Arresco with the BIR that these piano parts will be used exclusively for replacement purposes and are not for resale, barter or exchange;

11. That the tax due on the electronic organs was likewise reduced also because of representations made by the Arresco that the organs will be used exclusively by the YYMC in their music school and are not for resale, barter or exchange;

12. That the electronic organs were released duty-free under Section 105 (e) of the Tariff and Customs Code after representations were made with the Department of Finance by the Arresco that the organs were for the

exclusive use of the Yamaha School of Music and not for resale, barter or exchange;

13. That the letter addressed to the Department of Finance, requesting for exemption from customs duties was signed by a certain Estrellita de Guzman, allegedly corporate secretary of the YYMC but who actually was the treasurer of the Arresco;

14. That in requesting for exemption from the payment of duties, Arresco presented a permit allegedly issued by the Department of Education to the Yamaha School of Music;

15. That the permit, when verified by the CIID,[1] was found to be a permit issued to Seminario San Jose of Puerto Princesa;

16. That further verification by the CIID showed more misrepresentations committed by the Arresco, such as the fact that the YYMC had never authorized the Arresco to request for any reduction in the taxes and duties due on the organs and on the pianos; that the YYMC had never intended to use the organs in its music school nor use the piano parts exclusively for replacement purposes; and, that it was never the intention of the YYMC to avail of any exemption; on the contrary, it had always intended to pay fully whatever is due on the organs and on the pianos as shown by the two checks it had issued to cover the estimated duties and taxes.

Respondent Commissioner of Customs, notwithstanding his admission that the fraud and misrepresentations committed in the release of the subject articles from the Bureau of Customs were those of the broker, Arresco, Inc., however, believes that said articles are subject to forfeiture under Section 2530 (m)-3 and (m)-5 of the Tariff and Customs Code because

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1 Customs Investigation and Intelligence Department. (Footnote supplied.)

(1) there was a relationship of principal and agent, between the petitioner and Arresco, Inc., and so, as principal, petitioner should also be responsible for the act of its agent; and (2) even assuming that the Arresco, Inc. had acted beyond the scope of its authority, the receipt by petitioner of the benefits of the transaction made by its agent amounts to a ratification of its act. (See Respondent's Memorandum, pp. 47-50, CTA rec.)

Petitioner, on the other hand, disputes the position of respondent on the grounds (1) that the fraudulent acts and misrepresentations committed by Arresco, Inc. were beyond the scope of its authority under the agency and were without the knowledge and consent of petitioner; (2) that petitioner did not gain any benefit from the fraudulent acts of Arresco, Inc.; and (3) that petitioner could not be considered to have ratified the fraudulent acts and misrepresentations of Arresco, Inc. because it had no knowledge of it. (See Petitioner's Reply Memorandum, pp. 55-62, CTA rec.)

We are in agreement with the petitioner and must rule against the forfeiture of its imported merchandise.

The facts indubitably show that through the fraudulent acts or misrepresentations made by Arresco, Inc., the customs duties and taxes on the imported articles in question were substantially reduced and the articles were released by the Bureau of Customs upon payment of the reduced amounts. However, as admitted, the misrepresentations or fraudulent acts committed by Arresco, Inc. were never authorized by the petitioner, and, in fact, from the records of the Bureau of Customs, which include the evidence presented by both parties during the seizure proceedings, it appears that such fraudulent acts and misrepresentations were perpetrated without its knowledge. In other words, whether by means of actual or tacit acts or participation, there is nothing which can rightly be alluded to petitioner upon which we can hold it responsible and personally liable for any acts of making false declaration or affidavit or any fraudulent practice or device committed by it which will give rise to forfeiture under Section 2530 (m)-3 and (m)-5 of the Tariff and Customs Code.

While it is true that the service of Arresco, Inc. as broker was engaged by the petitioner, it is quite evident that the authority of Arresco, Inc. was simply to secure the release of the two (2) shipments from the Bureau of Customs upon payment of the full customs duties and taxes legally and properly due thereon. As we see it, there was even no intimation from petitioner that Arresco, Inc. should ask for an exemption or reduction of the customs duties and taxes on the imported articles. On the contrary, the two (2) checks drawn by petitioner in favor of Arresco, Inc. in the amounts of ₱38,667.00 and ₱35,906.00 were precisely intended to cover the payment of the correct duties and taxes on the 30 crates of electronic organs and the 30 cases of piano parts, respectively, as computed by Arresco, Inc. Thus, when Arresco, Inc. made false or fraudulent acts and misrepresentations in the papers for the purpose of securing an exemption and reduction of the duties and taxes due upon the importations, it was clearly performing acts in excess of the scope of its authority, and petitioner, therefore, which had no knowledge thereof, cannot be bound or held responsible therefor. The settled doctrine of the law of agency thus states:

> As for any obligation wherein the agent has exceeded his power, the principal is not bound except when he ratifies it expressly or tacitly. (Art. 1910, Civil Code.)
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> A principal will not be held responsible for his agent's deceit unless he has authorized the deceit or participated in it or has knowingly permitted the agent to commit it. (Mc Veigh vs. Mc Gurren, 117 F2d 672, 678; Janeczko vs. Manheimer, 77 F2d 205, 207.)
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> . . . Nor, unless there is a later ratification by the principal with full knowledge of all material facts, can a person dealing with an agent hold the principal liable for any act or transaction of the agent not within the scope of his real or apparent authority. (3 Am Jur 2d., Sec. 262, p. 628.)

> A principal is not bound by the false representation of his agent made without his knowledge, consent, or authority, nor an officer of a company by the representations of the company's agent so made. (Grisman vs. McCarty, 236 F, 777, 781.)

Neither can it be tenably asserted nor imputed, under the facts and circumstances of this case, that petitioner had ratified the acts of Arresco, Inc. by its receipt or acceptance of the benefits of the transaction. In the first place, there is no evidence whatsoever that petitioner received the difference between the amounts covered by the two checks for the payment of the correct duties and taxes on the subject articles and the amounts which had actually been paid by Arresco, Inc. to the Bureau of Customs. On the contrary, the evidence indicates that Arresco, Inc. kept the anomalous transaction to itself and never made any attempt to return to petitioner the excess of what was actually paid by it, thus defrauding also the latter. In the second place, the release of the imported articles cannot be considered as a benefit of petitioner from the fraudulent acts and misrepresentations of Arresco because had the customs duties and taxes due on the two shipments been paid, as petitioner in fact had drawn two (2) checks in the amounts of ₱38,667.00 and ₱35,905.00 to cover the payment of duties and internal revenue taxes due, said imported articles would have been released by the Bureau of Customs just the same. Thirdly, even assuming that the benefit of the transaction referred to was the eventual release and delivery of the goods in question, the receipt or acceptance thereof by the petitioner was made in utmost good faith and was predicated upon the honest belief that the transaction was in order and regular and that it had no knowledge at all of the fraudulent acts or misrepresentations committed by Arresco, Inc. It is well settled that before there can be any ratification of the acts or representations of an agent, the principal or the ratifying party must have knowledge of what he has ratified. (Vasquez vs. Porta, 98 Phil. 490, 495; Yu Chuck vs. Kong Li P, 46 Phil. 608, 615; Buss vs. Prudential Insurance Company of America, 126 F2d 960, 965; Pullman Co. vs. Hall, 46 F2d 399, 405.) Moreover, the acceptance of the benefits derived from an agent's unauthorized act does not constitute ratification if the principal has no knowledge of all the material facts surrounding the transaction. (3 Am Jur 2d., Sec. 176, p. 562; Schutz vs. Jordan, 141 US 213, 35 L ed 705, 11 S Ct 906.)

In applying Section 2530 (m)-3 and (m)-5 of the Tariff and Customs Code, it must have to be borne in mind that this provision of law is an amendment to Section 1363 (m)-3 and (m)-5 of the Revised Administrative Code, which previously governs violations of this nature. This new and amendatory law, said Section 2530 (m)-3 and (m)-5, had removed and omitted the provisions of the previous law which then expressly states and includes the making of false declaration or affidavit and the fraudulent practice or device of the agent, relative to the importation, as causes for forfeiture of imported articles. With this amendment, the present law (Section 2530 (m)-3 and (m)-5 of the Tariff and Customs Code) opens a good defense to the effect that where any false declaration and/or fraudulent practice is committed by the agent, forfeiture cannot be imposed upon the imported goods. It can only be justified if the owner, importer, consignee, or exporter of the goods has full knowledge of, or has authorized, or in any manner shown by the evidence, the commission of the fraudulent acts or false declaration of the agent. To apply the present law outrightly upon the false declaration or fraudulent acts solely made or committed by the agent, which is not anymore expressly mentioned as constitutive of a violation for purposes of forfeiture of the imported goods, would surely create a great injustice upon the principal petitioner. And more, if we were to take the position of respondent, such application of the law will certainly discourage the owners, importers or consumers in entering into, or transacting, business with customs brokers or agents with respect to their importations.

At any rate, the case before us is not without a precedent. In the case of Teodoro Luna vs. Commissioner of Customs (C.T.A. Case No. 1947 [Decision] Nov. 29, 1968; [Resolution on motion for reconsideration] Feb. 17, 1969), wherein an imported car was made subject to forfeiture by the Bureau of Customs for alleged violation of Section 2530 (m)-5 of the Tariff and Customs Code because the release of said vehicle was obtained through the payment by the broker hired by the petitioner of the customs duties and taxes with a fake check, this Court ruled:

> There is no question that the car was released to petitioner because of the tender of payment by means of a check which was dishonored by the drawee bank for lack of funds. The check was issued by the alleged broker who assured petitioner that the sum of ₱12,000 would be sufficient to take care of the duties, taxes and other charges required for the release of the car. Petitioner, a member of the armed forces of the Philippines and fresh from a foreign assignment in the service of his country actually paid the sum of ₱12,000. He had reason to believe in the regularity of the transaction in view of the release of the cars of his comrades in arms under similar circumstances. If fraud was committed in this case, it was committed primarily against petitioner. The government has an adequate recourse against petitioner; the latter, on the other hand, appears helpless against the alleged broker. If for no other reason, this appears to us sufficient justification to resolve the issue against forfeiture and in favor of the government collecting the taxes and duties assessed on the car. (Id., Resolution on Motion for Reconsideration, Feb. 17, 1969.)

From all the factual and legal considerations and circumstances of the case at bar, it, therefore, appears that the respondent erred in holding petitioner herein responsible for the fraudulent acts and misrepresentations of its broker, Arresco, Inc., and in thus subjecting to forfeiture petitioner's imported articles. Indeed, as was stated in the Luna case, the remedy of the Government should be to collect the deficiency customs duties and taxes still due and remaining unpaid on the articles in question and not to subject the same to forfeiture.

WHEREFORE, the decision of the Commissioner of Customs appealed from is hereby reversed. Respondent is hereby ordered to release the thirty (30) crates of Yamaha Electronic Organs and the thirty (30) cases of piano spare parts upon the payment of the corresponding duties and taxes due to the Government.

SO ORDERED.

Quezon City, April 25, 1978.

CONSTANTE C. ROAQUIN
Associate Judge

I CONCUR:

Amante Filler

AMANTE FILLER
Acting Presiding Judge