BIENVENIDO MAPA,
Petitioner,

-versus-

C.T.A. CASE No. 749

THE COMMISSIONER OF CUSTOMS,
Respondent.

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D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs, dated November 20, 1959, affirming that of the Acting Collector of Customs for the Port of Manila, decreeing the forfeiture of nine (9) packages of salted yellow beans; eight (8) packages of salted beans; one (1) package of preserved vegetables; five (5) packages of dried shrimps in bulk; and one (1) package of shark's fins, for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) of the Revised Administrative Code.

The following are the undisputed facts of the case, to wit:

> "At the joint hearing of the cases, it has been established by agreement of the parties that the nine (9) packages of salted yellow beans covered by Seizure Identification No. 1857 arrived at the port of Manila from Hongkong on board the S/S 'Hervar' on August 24, 1954, consigned to the claimant and declared in Entry No. 68247, series of 1954; that the merchandise are covered by a bill of lading; that the duties and taxes due on the said merchandise were paid as shown

> by Official Receipts Nos. 49611, 49941 and 49310; that the importation covered by Seizure Identification No. 1858 arrived at the port of Manila on board the S/S 'Hervar' from Hongkong, on August 24, 1954, and declared in Entry No. 68246, series of 1954; duly covered by a bill of lading, and the duties and taxes due thereon were paid as shown by Official Receipts Nos. 49612 and 49940; that the merchandise covered by Seizure Identification No. 1859 arrived at the port of Manila from Hongkong on board the S/S 'Hervar' on August 24, 1954, and declared in Entry No. 68243, series of 1954; duly covered by a bill of lading, and that all the duties and taxes due thereon were paid as shown by Official Receipt Nos. 49311 and 49316; that all the merchandise involved in the three cases are not covered by the proper bank release certificates, hence their seizure; x x x." (pp. 96-97, Customs rec.)

During the pendency of the seizure proceedings, the articles in question were released to petitioner under PISC Surety Bond Nos. 028, 027 and 026, issued by the Pioneer Insurance Surety Corporation in the respective amounts of ₱1,885.00, ₱1,324.00 and ₱1,318.00 (See pp. 55-73, Customs rec.), the conditions of which read as follows:

> "Now, THEREFORE, the conditions of this obligation are such that in the event that it should be finally decided that the merchandise herein mentioned should be forfeited to the Government, and/or that a fine or surcharge should be imposed, the entire amount of this bond, in case of forfeiture, or the corresponding amount of the fine or surcharge, as the case may be,

> shall be paid IN CASH to the Bureau of Customs, PROVIDED, HOWEVER, that if within thirty (30) days from demand for payment of the liability herein mentioned the said liability is not paid, and it should be found necessary to file an action in court to effect the collection thereof, a penalty of FIVE HUNDRED PESOS (₱500.00) in addition shall be imposed, otherwise, this obligation shall be void and of no effect."

In his answer, respondent seeks the payment, jointly and severally, by petitioner and his sureties of the amounts covered by said bonds and the additional sum of ₱1,500.00 by way of damages.

Subsequent to the filing of respondent's answer, petitioner filed a motion to set aside the decision of respondent and to dismiss the forfeiture proceedings on the ground that with the repeal by C. B. Circular No. 133 of C. B. Circular No. 20 which was implemented by C. B. Circulars Nos. 44 and 45, the liability of said articles for forfeiture has abated. In a resolution dated October 9, 1962, this Court held in abeyance the resolution of the motion, the same to be considered in the decision of the case on the merits.

Later, petitioner moved to postpone the hearing of this case until the Supreme Court shall have decided the case of Lazaro vs. Commissioner of Customs, G. R. No. L-21790 and 21794, wherein the same issues as those involved in the present case were raised. Accordingly, the hearing was postponed. On December 24, 1965, the Supreme Court rendered its decision in the Lazaro case.

The main issue to be decided in this case relates to the legality of the seizure and forfeiture of the aforesaid merchandise.

Petitioner assails the validity of the forfeiture proceedings on the ground that Central Bank Circulars Nos. 44 and 45 have been repealed by Central Bank Circular No. 133. This question was resolved in the recent case of Andres E. Lazaro vs. The Commissioner of Customs, G. R. Nos. L-21790 and L-21794, December 24, 1965, wherein it was held:

> "The issue of whether or not the importations in question are subject to forfeiture for lack of a Central Bank release certificate in violation of Central Bank Circulars 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code has already been answered in the affirmative in previous cases involving similar facts.[1] We see no cogent reason to alter our previous rulings.
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> "Central Bank Circular 133 did not repeal Circulars 44 and 45 with respect to the necessity of a release certificate. As a matter of fact, paragraph 6 of Circular 133 required imports to be released only upon presentation of a release certi-

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[1] Serree Investment Company vs. Commissioner of Customs, L-21217, November 29, 1965 and cases cited therein.

ficate issued by the Central Bank. Not only that, Section 14 of Circular 44 which states:

> '14. No item of import shall be released by the Bureau of Customs without the presentation of a release certificate issued by the Central Bank or any authorized Agent Bank in a form prescribed by the Monetary Board.'

was deemed incorporated to Circular 133 by virtue of paragraph 8 thereof which we quote hereunder:[2]

> '8. All existing circulars, rules, regulations, and conditions governing transactions in foreign exchange not inconsistent with the provisions of this Circular, are deemed incorporated hereto and made integral parts hereof by reference.'

"With respect to the assertion that the enactment of Republic Act 1410 abated any liability incurred for violation of Central Bank Circular 45, suffice it to say that the importations in question do not come within the operation of said Act, for Section 3 thereof says:

> 'SEC. 3. x x x Provided, however, That goods and commodities in transit or previously imported on a no-dollar remittance basis at the time of the approval of this Act shall not be affected by the operation of this Act.' (Underscoring supplied)

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[2] Bombay Department Store v. Commissioner of Customs, L-20489, June 22, 1965; Bombay Department Store v. Commissioner of Customs, L-20460, September 30, 1965.

Said goods had already been imported and declared forfeited by the Collector of Customs of Manila when Republic Act 1410 was enacted on September 10, 1955."

Anent the claim for damages, we held in similar cases that liability for damages does not attach until there is final judgment ordering forfeiture (See Mapa vs. Comm. of Customs, CTA Cases 893 and 894, August 27, 1963; Que Hua Shirt Factory v. Comm. of Customs, CTA Cases 739 and 753, Jan. 11, 1962; Lazatin v. Comm. of Customs, CTA Case 782, Jan. 19, 1962).

WHEREFORE, petitioner's motion to set aside the decision of respondent Commissioner and to dismiss the forfeiture proceedings, filed on August 8, 1962, is hereby denied and the decision appealed from is affirmed __in toto__, with costs against petitioner.

SO ORDERED.

Quezon City, June 6, 1966.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

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