BIENVENIDO MAPA,
Petitioner

versus CTA CASE NO. 862

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 June 1, 1960, affirming the decision of the Collector of Customs for the Port of Manila decreeing the forfeiture of the goods covered by Seizure Identification Nos. 1672, 1673, 1674, 1693, 1694, 1826 and 1837, and ordering petitioner and his sureties to pay in cash, jointly and severally, the amounts of ₱1,550.00, ₱363.00, ₱1,621.00, ₱423.00, ₱810.00, ₱1,872.00 and 660.00, or a total of ₱7,299.00.

In 1954, various merchandise were imported by petitioner from Hongkong. They consist of 5 pkgs. album, 1 pkg. Chinese pen and holder, 1 pkg. broom (bamboo), 1 pkg. sieves, 5 pkgs. rattan split, 3 pkgs. broom, 2 pkgs. candy, 1 pkg. joss stick, 15 pkgs. salted fish, in bulk, 6 pkgs. dried shrimps, 4 pkgs. salted fish, 5 pkgs. lily root, fresh, and 4 pkgs. waterchestnuts, fresh, which were declared under Import Entry Nos. 52255-D, 52255-G, 52255-C, 57576, 57575, 66929 and 68245. Upon arrival of the said merchandise, they were seized by the Appraisers' Division of the Bureau of Customs for alleged violation

69

of Central Bank Circular Nos. 44 and 45, in relation to Section 1363(f) of the Revised Administrative Code. However, during the pendency of the seizure proceeding, the said merchandise were released to petitioner upon filing surety bonds of the Paramount Surety and Insurance Co., Inc. Nos. 54/4246, 54/4244, 54/4245, 54/4279 and 54/4280 in the respective amounts of ₱1,550.00, ₱363.00, ₱1,621.00, ₱423.00 and ₱810.00, and of the Pioneer Insurance and Surety Corp. Nos. 017 and 020, series of 1954, in the respective amounts of ₱1,872.00 and ₱660.00, or a total of ₱7,299.00, to cover the local appraised value of the merchandise in question. The bonds uniformly provide that in the event of the forfeiture of the merchandise covered by the said bonds, the entire amount thereof shall be paid in cash to the Bureau of Customs. Furthermore, a penalty of ₱500.00 was stipulated in each bond which reads 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."

70

After the hearing of the seizure proceedings, the Collector of Customs for the Port of Manila decided on June 28, 1955 that inasmuch as the merchandise in question have been imported without import licenses and they were not covered by release certificates in violation of Central Bank Circular Nos. 44 and 45, the same are subject to forfeiture under Section 1363(f) of the Revised Administrative Code. But since the merchandise were previously released to petitioner under surety bonds, the Collector of Customs ordered petitioner and his sureties to pay in cash, jointly and severally, the total amount of ₱7,299.00 to the Bureau of Customs.

From the decision of the Collector of Customs, petitioner appealed to the Commissioner of Customs who, affirmed the decision of the former on June 1, 1960. Hence, petitioner appealed to this Court.

Subsequently, petitioner filed a motion on January 10, 1963 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 Central Bank Circular No. 20 which was implemented by Central Bank Circular Nos. 44 and 45, the liability of the aforesaid merchandise has abated. This Court, in a resolution dated January 31, 1963, 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

71

the case of Lazaro v. Commissioner of Customs, G. R. Nos. L-21790 and L-21794, which involve the same issues as that raised in the case at bar. On December 24, 1964, the Supreme Court rendered its decision in the Lazaro case.

The issues to be resolved in this case are as follows:

(1) Whether or not the merchandise involved in this case are subject to forfeiture for not being covered by release certificates and import licenses under Circular Nos. 44 and 45 of the Central Bank, in relation to Section 1363(f) of the Revised Administrative Code;

(2) Whether or not petitioner is liable for ₱500.00 as damages under each of the bonds filed by him for the release of the merchandise in question; and

(3) Whether or not petitioner is liable for interest on the total amount of the surety bonds.

The main issue relative to the legality of the seizure and forfeiture of the aforesaid merchandise is not new. In a case involving the same issue (Andres E. Lazaro v. The Commissioner of Customs, G.R. L-21790 & L-21794, Dec. 24, 1965), the Supreme Court held as follows:

> 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

72

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.

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 certificate 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:

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

[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.

"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 this Act shall not be affected by the operation of this Act." (Underscoring supplied.)

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. (See also the case of Capulong v. Aseron, G. R. No. L-22989, May 14, 1966.)

Anent the second issue, we held in similar cases that liability for damages does not attach until there is a final judgment ordering forfeiture (Que Hua Shirt Factory v. Comm. of Customs, CTA Case Nos. 739 and 753, Jan. 11, 1962; Lazatin v. Comm. of Customs, CTA Case No. 782, Jan. 19, 1962; Mapa v. Comm. of Customs, CTA Case Nos. 893 and 894, Aug. 27, 1963; Mapa v. Comm. of Customs, CTA Case No. 749, June 6, 1966; Mapa v. Comm. of Customs, CTA Case No. 835, July 5, 1966).

Finally, respondent is not entitled to interest on the total amount of the surety bonds, the payment of which he seeks from petitioner, for the reason that said bonds do not provide for the payment of interest.

WHEREFORE, the petitioner's motion to set aside the decision of respondent Commissioner of Customs and to dismiss the forfeiture proceedings filed on January 10, 1963, is hereby denied and the decision appealed from is affirmed <u>in toto</u>, with costs against petitioner.

SO ORDERED.

Quezon City, August 15, 1966.

ESTANISLAO R. ALVAREZ
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

RAMON L. AVANCEÑA
Associate Judge