REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

BIENVENIDO MAPA,
Petitioner,

- versus - C.T.A. CASE NO. 835

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 March 4, 1960, affirming that of the Collector of Customs for the Port of Manila decreeing the forfeiture in favor of the Government of nine (9) packages of dried shrimps.

The facts of the case, as stipulated by the parties, are as follows:

> "1) That the nine (9) packages containing Dried Shrimps consigned to Bienvenido Mapa and declared under Entry No. 64432, current series, were seized for alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code;
>
> "2) That said importation has no Bank Release Certificate, hence the seizure proceeding instituted by the Bureau of Customs;
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> "3) That the shipment arrived at the Port of Manila on board the SS KINA on August 9, 1954;
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> "4) That the said shipment contains nine (9) packages of DRIED SHRIMPS covered by Entry No. 64432, current series;
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> "5) That the shipment is covered by the following shipping documents; the Bill of Lading No. M-3; the Commercial Invoice;

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"6) That the advanced sales tax and duties were paid in the amount of three hundred eighty-eight pesos and eighty-two centavos (₱388.82) paid under Official Receipt No. 47252 dated August 10, 1954." (P. 41, Customs Rec.)

Since the importation was not covered by the corresponding license and/or release certificate from the Central Bank of the Philippines, the same was forfeited in favor of the Government for violation of Central Bank Circulars Nos. 44 and 45, in relation to Section 1363(f) of the Revised Administrative Code. However, during the pendency of the seizure proceedings, the merchandise in question was released to petitioner under Surety Bond No. 54/4378 in the amount of ₱2,285.00 with the Pioneer Insurance and Surety Corporation as surety. (P. 62, Customs Rec.)

On March 4, 1960, the Commissioner of Customs rendered a judgment in the seizure proceedings declaring the bond confiscated and ordered petitioner and surety to pay jointly and severally the amount of ₱2,285.00 within 30 days from receipt of copy of the decision in accordance with the terms of the surety bond. (P. 31, Customs Rec.) Hence, this appeal.

In his answer, respondent seeks the payment of ₱2,285.00 and/or the forfeiture of the bond filed by the Paramount Surety & Insurance Co., Inc. and the sum of ₱500.00 as additional damages. (Pp. 16-19, C.T.A. Rec.)

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On January 10, 1963, petitioner filed a motion to set aside the decision of the 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 Circulars Nos. 44 and 45, the liability of the aforesaid merchandise has abated. (Pp. 28-33, C.T.A. Rec.) 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. (Pp. 48-51, C.T.A. Rec.)

Subsequently, petitioner moved to postpone the hearing of this case until the Supreme Court shall have decided the case of Andres Lazaro v. The Commissioner of Customs, G.R. Nos. L-21790 & L-21794, which involves the same issue as that raised in the case at bar. On December 24, 1965, the Supreme Court rendered its decision in the Lazaro case.

The main issue 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. In the case of Andres E. Lazaro v. The Commissioner of Customs, G.R. Nos. L-21790 and L-21794, December 24, 1965, which as aforesaid involves the same issue, 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.

"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:

> 'SEC. 3. x x x Provided, however, That goods and commodities in transit or previously imported

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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.

> on a no-dollar remittance basis
> <u>at the time of the</u> approval of
> this Act shall not be affected by
> the operation of this Act.'" (Under-
> scoring supplied.) (See also Bien-
> venido Capulong v. Aseron, G.R.
> No. L-22989, May 14, 1966.)

With respect to the claim for damages, we have consistently held that liability for damages does not attach until there is a final judgment ordering forfeiture. (See Mapa v. 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; Mapa v. Comm. of Customs, CTA Case 749, June 6, 1966.)

WHEREFORE, petitioner's motion to set aside the decision of the respondent 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, July 5, 1966.

ROMAN M. UMALI
Presiding Judge

WE CONCUR:

ESTANISLAO R. ALVAREZ
Associate Judge

RAMON L. AVANCEÑA
Associate Judge

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