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January 12, 1961

PHILIPPINES INTERNATIONAL
SURETY CO., INC.,
Petitioner,

- versus -

C.T.A.
CASE NO. 745

COMMISSIONER OF CUSTOMS,
Respondent.

x - - - - - - - - - - - - - - - x

RESOLUTION

This is in connection with the special and affirmative defenses raised by the respondent in his "Answer with Counterclaim" filed on March 3, 1960, to wit:

1. That petitioner has no legal capacity to sue; and

2. That the petition states no cause of action.

Petitioner is the surety of Manuel Santos, importer and claimant of seven (7) cases of candies, subject of Seizure Identification No. 2428. On February 2, 1960, it filed a petition for review with this Court seeking the reversal of respondent's decision dated January 14, 1960 which affirms the decision of the Collector of Customs for the Port of Manila in connection with Seizure Identification No. 2428. On March 3, 1960, respondent filed an "Answer with Counterclaim", alleging the special and affirmative defenses heretofore stated. On May 26, 1960, petitioner filed a "Petition for Inclusion of Principal Claimant as Party Petitioner". On July 11, 1960, this Court denied this petition on the ground that Manuel Santos did not appeal from the decision of respondent dated January 14, 1960 and therefore, with respect to him, the decision is now final and executory.

The issues for consideration in this resolution are whether the petitioner has the legal capacity to institute the instant appeal, and whether the petition for review states a cause of action.

The records of this case disclose that Manuel Santos is the importer and claimant of the goods, subject of Seizure Identification No. 2428. Indeed, the entire records of this case show that he is the owner of the goods in question. The participation of the petitioner in this case is limited only to its being a surety of Manuel Santos in effecting the release of the goods, subject of the seizure proceedings (see Exh. 4, respondent, and Exh. C, petitioner, p. 8-9, Customs rec.).

These clear and indisputable facts notwithstanding, petitioner maintains that it has the capacity to institute the present proceedings in this court, as one adversely affected by the decision of the respondent in Seizure Identification Case No. 2428, for the reason that it has bound itself to be jointly and solidarily liable with Manuel Santos in the amount of ₱1,785.05 in consideration of the release of the goods. For ready reference, this pertinent provision of Section 11 of Republic Act No. 1125 relied upon by the petitioner is hereunder reproduced:

> "Sec. 11. Who may appeal; effect of appeal.- Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, Collector of Customs or any provincial or City Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling." (Underscoring supplied.)

We cannot subscribe to the theory that the petitioner is "adversely affected" by the decision of respondent in Seizure Identification Case No. 2428. In interpreting the above cited provision of law, we have stated that it refers only to those "persons, associations or corporations whose proprietary or pecuniary interests are adversely affected by a decision" of the officials therein mentioned. (See, Acting Collector of Customs vs. Commissioner of Customs, C.T.A. Case No. 17, January 22, 1955, affirmed in G. R. No. L-8811, Oct. 31, 1957; Hough v. North Adams [1907] 196 Mass 290, 82 N.E. 46, cited in 74 ALR 1221.) It cannot be stated that by virtue of its undertaking of suretyship whereby it has agreed to be jointly and solidarily liable with Manuel Santos to respondent in the amount of ₱1,785.05, petitioner will actually suffer pecuniarily and fall within the contemplation of the phrase "adversely affected" in Section 11 of Republic Act No. 1125. It is true that the nature of the obligation contracted by petitioner with Manuel Santos would enable respondent to go against the petitioner to the exclusion of Manuel Santos, pursuant to Article 1216 of the New Civil Code. Nevertheless, it cannot be said that by this procedure petitioner would be adversely affected pecuniarily, because it still retains the right to be reimbursed by its principal Manuel Santos (Art. 2117, New Civil Code).

From the foregoing, it is obvious that petitioner does not fall within the purview of Section 11 of Republic Act No. 1125 and, consequently, does not have the legal capacity to institute the instant petition for review before this Court.

Having disposed of the first issue adversely to petitioner, we find it unnecessary to consider the second issue.

WHEREFORE, the petition for review in the above case is hereby dismissed, with costs against petitioner.

SO ORDERED.

Manila, January 12, 1961.

MARIANO NABLE
Presiding Judge

I concur:

AUGUSTO M. LUCIANO
Associate Judge

I concur in the result.

ROMAN M. UMALI
Associate Judge