REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
MANILA

FERMIN SARE,
Petitioner,

-versus-

C.T.A.
CASE NO. 866

TIMOTEO Y. ASERON, in his capacity as the Acting Commissioner of Customs,
Respondent.

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DECISION

This is an appeal from the decision of the Acting Commissioner of Customs dated June 23, 1960, affirming an order of the Collector of Customs of Manila decreeing the forfeiture of the various merchandise imported by the petitioner from Hongkong on October 28, 1954, and November 2, 1954, for alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code.

This case has been submitted for decision on the following stipulation of facts, to wit:

> "1. That the petitioner is a natural person, of legal age, and a resident of the City of Manila, while the respondent was the Acting Commissioner of Customs, with offices located at the Bureau of Customs, Manila;
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> "2. That on October 28, 1954, petitioner imported from Hongkong into the Philippines two (2) shipments of various merchandise under Registry No. 1371 which were declared under Entry Nos. 85328 and 85327, respectively, both Series of 1954 and covered by their respective Bills of Lading and Commercial invoices. Customs duties and sales taxes

due thereon were paid before these shipments were released under bond;

"3. That on November 2, 1954, petitioner likewise imported from Hongkong into the Philippines one shipment of various merchandise under Registry No. 1395 which was declared under Entry No. 87046, Series of 1954, duly covered by Bill of Lading and commercial invoice. Customs duties and sales taxes due thereon were paid before this shipment was released under bond;

"4. That these importations were not covered by import licenses, consular invoices, and Release Certificates from the Central Bank and were consequently seized by the Collector of Customs of the Port of Manila, under Seizure Identification Nos. 2112, 2121 and 2134, respectively, for alleged violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363(f) of the Revised Administrative Code;

"5. That during the pendency of the above-mentioned seizure proceedings the importations in question were, however, released and delivered to the petitioner under surety bonds Nos. 151, 154 and 158, all series of 1954, in the respective sums of ₱2,890.69, ₱2,411.00 and ₱4,069.00 or a total of ₱9,370.69 posted by the Pioneer Insurance and Surety Corporation;

"6. That on June 23, 1960, respondent rendered judgment in the above-mentioned Seizure Identification Nos. 2112, 2121 and 2134, the dispositive portion of which reads as follows:

> 'WHEREFORE, by authority of Section 1380 of the Revised Administrative Code in relation to Section 3702 of the Tariff and Customs Code of the Philippines, the Pioneer Insurance & Surety Corporation Bond Nos. 151, 154 andl158, all series of 1954, which have been filed for the release of the subject merchan-

53

dise respectively covered by Manila Seizure Identification Nos. 2112, 2121 and 2134, are hereby confiscated; and the principal F. Sare Enterprises, as well as the aforesaid surety are hereby ordered to pay, jointly and severally, in CASH, the respective amounts of TWO THOUSAND EIGHT HUNDRED NINETY PESOS and SIXTY NINE CENTAVOS (₱2,890.69), TWO THOUSAND FOUR HUNDRED ELEVEN PESOS (₱2,411.00), and FOUR THOUSAND SIXTY-NINE PESOS (₱4,069.00) or a total of NINE THOUSAND THREE HUNDRED SEVENTY PESOS AND SIXTY-NINE CENTAVOS (₱9,470.69), Philippine Currency to the Bureau of Customs within thirty (30) days from receipt of a copy of this decision in accordance with the terms of the said bonds.'"

The only issue raised is whether or not the forfeiture of the merchandise in question is legal.

The same issue has been already decided by the Supreme Court in Pascual vs. Commissioner of Customs, G.R. No. L-10979, June 30, 1959; Commissioner óf Customs vs. Leuterio, G.R. No. L-9142, October 17, 1959; See also Mendoza vs. Aseron, CTA Case No. 852 June 17, 1963; and Estanislao Leuterio vs. Commissioner of Customs CTA Case No. 977, July 2, 1963, wherein it was consistently held that importations effected in violation of Central Bank Circulars Nos. 44 and 45 in relation to Section 1363 (f) of the Revised Administrative Code (now Section 2530/f/ of the Tariffs and Customs Code), are subject to forfeiture.

(54)

In the cases of Andres E. Lazaro vs. Commissioner of Customs, CTA Cases Nos. 833 and 834 dated June 14, 1963, this Court held:

> "Petitioner questions the validity of the seizure and forfeiture proceedings on the premise that Central Bank Circulars Nos. 44 and 45 have been repealed by Central Bank Circular No. 133.
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> "There is no inconsistency between Circulars Nos. 44 and 133 in so far as the presentation of a release certificate of the Central Bank is concerned. Section 14 of Central Bank Circular No. 44 provides as follows:
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> > '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 in a form prescribed by the Monetary Board.'
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> "This Section has a counterpart in Central Bank Circular No. 133, paragraph 6 of which reads:
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> > '6. Imports shall be released from the port of entry only upon presentation of a release certificate issued by the Central Bank based on letter of credit opened. (See 58 O.G. No. 5 p. 882.)'
>
> Moreover, Circular No. 133 further provides:
>
> > '8. All existing circulars, rules regulations, and conditions governing transactions in foreign exchange not inconsistent with the provision of this Circular, are deemed incorporated hereto and made integral parts hereof by reference. (Paragraph 8.)'
>
> "Obviously, Central Bank Circular No. 133, far from repealing the provision of Central Bank Circular No. 44 relative to the requirement of a release certificate, has adopted the same requirement.

"Since Central Bank Circular No. 44 has not been repealed by Central Bank Circular No. 133 with respect to the requirement of a release certificate of the Central Bank, it follows that the seizure and forfeiture of the merchandise in question pursuant to the former circular, in relation to Section 1363(f) of the Revised Administrative Code, are in order.

"Moreover, even granting arguendo that Central Bank Circular No. 44 has been repealed by Circular No. 133, the validity of the forfeiture under the old circular is not affected by its repeal, the merchandise in question having been imported illegally while it was still in force. The expiration of Central Bank Circular No. 44 did not have the effect of legalizing an importation of goods which was illegal at the time of importation (Golay Buchel and Cie, vs. Commissioner of Customs, G.R. No. L-10994, 11012, December 29, 1959; Leonora Roxas vs. Sayoc, G.R. No. L-6502, November 29, 1956)."

WHEREFORE, finding no error in the decision appealed from, the same is hereby affirmed, with costs against the petitioner.

SO ORDERED.

Manila, October 7, 1963.

MARIANO NABLE
Presiding Judge

I CONCUR:

ROMAN M. UMALI
Associate Judge