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August 3, 1964

ANTONIO NABU,
Petitioner,

- versus - C.T.A. CASE NO. 1333

HONORABLE COMMISSIONER
OF CUSTOMS,
Respondent.
x- - - - - - - - - - - - x

D E C I S I O N

This is an appeal from the decision of the Commissioner of Customs, dated November 9, 1962, affirming the order of the Collector of Customs for the Port of Manila decreeing the forfeiture of a Studebaker car, with Plate No. L-97901 - Pasay City, under the provisions of Section 2530 (k) of the Tariff and Customs Code.

The facts, as correctly stated in the Commissioner's decision, are as follows:

> "On May 24, 1962, the vehicle and the driver, Romulo Dunzo, were apprehended at the gate of Pier 8, North Harbor, upon discovery of 97 cartons of blue-seal king-size Chesterfield cigarettes in the baggage compartment of said vehicle.
>
> "The evidence adduced during the hearing shows that the car, owned by Antonio Nabu, the herein claimant, was left in the care and custody of Romulo Dunzo, for alleged repairs; that Romulo Dunzo was specifically authorized to use the car as part of his compensation; that at or about 12:00 noon of May 23, 1962, Romulo Dunzo was hired by his

friend and neighbor Arsenio Bondoc to transport cargo from Pier 8; that Suazo slept in the car that night and at or about 2:00 or 3:00 o'clock the following morning, Suazo and Bondoc proceeded to Pier 8, North Harbor; that at or about 4:00 o'clock that same morning, Suazo and one Jesus Baronia loaded three boxes in the baggage compartment of the car; and thereafter, Suazo and the car were apprehended while going out of the gate of Pier 8 with 97 cartons of blue-seal king-size Chesterfield cigarettes contained in three boxes in the baggage compartment of the car. Hence, this forfeiture of the vehicle under Sec. 2530 (k) of the Tariff and Customs Code of the Philippines. x x x"

The order of forfeiture of the car by the Collector was affirmed by the Commissioner of Customs. Hence, this appeal.

Prior to the filing of the answer of respondent, petitioner moved to release the car to petitioner's custody under bond, which motion was denied by this Court.

On the date of the hearing of the case, the parties manifested their agreement to submit the case on the basis of the records thereof.

The only question to be resolved by this Court is the legality of the forfeiture of the Studebaker car. The decision appealed from is based upon Section 2530 (k) of the Tariff and Customs Code of the Philippines which provides:

"Sec. 2530. Property Subject to Forfeiture under Tariff and Customs Laws. - Any vessel or aircraft, cargo, articles and other objects shall, under the following conditions, be subject to forfeiture:

x x x x

> "k. Any beast actually being used for the conveyance of article subject to forfeiture under the customs and tariff laws, with its equipage or trappings, and any vehicles similarly used, together with its equipage and appurtenances, including the beast, team or other motive power drawing or propelling the same; but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, or his agent in charge thereof at the time, has no knowledge of the unlawful act."

The evidence adduced during the seizure proceedings has established that Romulo Suazo brought the car in question to the North Harbor at the highly suspicious hour of 2:00 a.m. on May 24, 1962; that he helped load the "blue-seal" cigarettes into the baggage compartment of the car; and that he was authorized by petitioner to use the car. By granting authority to use the car in question upon Suazo, petitioner has constituted the former his agent in the matter of using said vehicle. And the fact that Suazo brought the car at 2 o'clock in the morning to North Harbor where he helped load the "blue-seal" cigarettes into the baggage compartment of the car sustains the conclusion that he had knowledge of the unlawful act of using the car in the conveyance of the forfeitable cigarettes. Hence, petitioner's car, with Plate No. L-97901 - Pasay City, is subject to forfeiture under the provisions of Section 2530

(k) of the Tariff and Customs Code.

WHEREFORE, the decision of the Commissioner of Customs, dated November 9, 1962, is hereby affirmed. No costs.

SO ORDERED.

Manila, August 3, 1964

MARIANO NABLE
Presiding Judge

WE CONCUR:

AUGUSTO M. LUCIANO
Associate Judge

ROMAN M. UMALI
Associate Judge