

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SPECIAL SECOND DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff-Appellee,

- versus -

CTA CRIM. CASE NO. A-9

(Criminal Case No. 14-307648)

Members:

BACORRO-VILLENA, Acting Chairperson, and
CUI-DAVID, JJ.

**EMELITA RAMIREZ y
TAYLO & SHIELA
LARRACOCHEA y TACBAS
aka SHIELA NERI y
LARRACOCHEA aka
SHIELA LARRACOCHEA
NERI,**

Accused-Appellants.

Promulgated:

JAN 25 2024

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RESOLUTION

CUI-DAVID, J.:

Not convinced with the ruling of the Court, accused-appellant Shiela Larracochea y Tacbas (accused-appellant Larracochea) seeks reconsideration of the Decision promulgated on July 27, 2023 (*Assailed Decision*), the dispositive portion of which reads:

WHEREFORE, premises considered, the appealed Decision dated February 19, 2021 and Order dated June 1, 2021, both rendered by the Regional Trial Court of Manila, Branch 21, in Criminal Case No. 14-307648, finding the accused-appellants EMELITA RAMIREZ y TAYLO and SHIELA LARRACOCHEA y TACBAS a.k.a. SHIELA NERI y LARRACOCHEA a.k.a. SHIELA LARRACOCHEA NERI guilty beyond reasonable doubt of the crime of Unlawful Importation as defined and penalized under Section 3601 in relation to Section 101(k) of the Tariff and Customs Code of the Philippines, as amended, and in relation further to Section 3 of Presidential Decree No. (PD) No. 1433, otherwise

Mr

RESOLUTION

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known as the "Plant Quarantine Decree of 1978"; to Section 2, Rule II of the Bureau of Plant Quarantine Administrative Order No. 1, series of 1981 as well as to Department of Agriculture Administrative Order No. 09, series of 2010, are hereby **AFFIRMED** insofar as it found accused-appellant **SHIELA LARRACOCHEA y TACBAS a.k.a. SHIELA NERI y LARRACOCHEA a.k.a. SHIELA LARRACOCHEA NERI** guilty beyond reasonable doubt of the crime of Unlawful Importation.

As regards accused-appellant **EMELITA T. RAMIREZ**, she is hereby **ACQUITTED** on reasonable doubt.

SO ORDERED.

In maintaining her innocence, accused-appellant Larracochea claims that the Court erred in finding her guilty of the offense charged, alleging that:

- a. The prosecution failed to establish that the importation in question would have resulted in the evasion of paying the proper duties and taxes due to the government;
- b. The prosecution failed to establish that Appellant *knowingly* caused or assisted in causing such evasion of duties and taxes; and
- c. The Appellant cannot be held legally responsible for the alleged falsity of the SPS Plant Quarantine Clearance.

By way of a *Comment (on Motion for Reconsideration dated August 30, 2023)*, plaintiff-appellee submits that accused-appellant's *Motion for Reconsideration* should be denied for failure to advance cogent grounds to warrant the reversal of the *Assailed Decision* dated July 27, 2023.

After a careful consideration of the grounds raised by accused-appellant in her *Motion for Reconsideration*, the Court finds that the issues and arguments raised therein had already been amply discussed, passed upon, and considered by the Court in the *Assailed Decision* sought to be reconsidered.

The comprehensive discussion on pages 29 to 36 and 49 to 53 of the *Assailed Decision* clearly explains why accused-



RESOLUTION

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appellant Larracochea was found to have committed the crime of smuggling.

To reiterate, the crime of smuggling is consummated even if the offender merely assisted in the fraudulent importation of any article contrary to law. Admittedly, in the case at bar, the “unlawful” importation would not have been possible without accused-appellant Larracochea’s intervention, to wit:

Q: Madame witness, is this importation possible without the intervention or assistance of the broker?

A: If the importer will be the one to process.

Q: But in this case?

A: They seek for an assistance of a customs broker.

Q: And you are the Customs broker in this case?

A: Yes, sir.

Q: **And without your assistance this importation would not have been possible?**

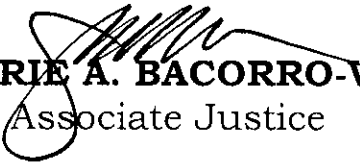
A: **Yes, sir.**¹ (*Boldfacing supplied*)

WHEREFORE, there being no compelling legal argument raised by accused-appellant Shiela Larracochea y Tacbas that will merit reconsideration, let alone modification of the *Assailed Decision* of July 27, 2023, accused-appellant’s *Motion for Reconsideration* is **DENIED**, for lack of merit.

SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

I Concur:


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

¹ TSN, May 10, 2019, pages 4-5.