S. OMBRA AMILBANGSA,
Plaintiff,

- versus - C.T.A. CASE NO. 255

ISIDRO ANGANGCO, as Collector of Customs for the Port of Manila,
Defendant.

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RESOLUTION

Plaintiff is seeking to enjoin the defendant Collector of Customs for the Port of Manila from selling at public auction two shipments of garlic imported by plaintiff in 1955.

Except for subsequent events, the facts of this case were recited in our Resolution of December 23, 1955 in S. Ombra Amilbangsa v. Manuel P. Manahan et al., C.T.A. Case No. 221. We reproduce the facts as stated therein:

> "From the record of this case, the following facts have been preliminarily established. On August 29, 1955, there arrived in the Port of Manila five hundred eleven (511) bundles of garlic, ex S/S "Tungus", Reg. No. 1014, consigned to the petitioner, and declared in customs entry No. 73959 series 1955, and supporting documents consisting of the commercial and consular invoices, a bill of lading, and a Central Bank release certificate, Ref. No. 11481.
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> "On September 16, 1955, there arrived in the Port of Manila two hundred (200) bundles of garlic, ex S/S "Seina", Reg. No. 1098, consigned to the petitioner and declared in customs entry No. 78691, series 1955, and likewise duly accompanied by the corresponding commercial and consular invoices, a bill of lading and a Central Bank release certificate, Ref. No. 11695.

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"On September 16, 1955, there arrived in the Port of Manila, three hundred seventeen (317) bundles of garlic, ex S/S "Seina", Reg. No. 1098, series 1955, also provided with the usual supporting commercial and consular invoices, a bill of lading and a Central Bank release certificate, Ref. No. 11698.

"The aforecited three shipments of garlic were imported under Bureau of Plant Industry Permit No. 12 dated January 25, 1955, issued in favor of the petitioner for 100,000 kilos of garlic bulbs for the purpose of having the same planted on the land of the petitioner in Tiptipon, Talipao, Sulu.

"These three shipments in question were seized by the respondent Collector of Customs upon instructions of the respondent Commissioner of Customs and in compliance with the directive, dated October 5, 1955, of the Cabinet. The directive and the warrant of seizure were based on alleged violation of Section 1 of Republic Act No. 1296, in relation to Section 1363 (f) of the Revised Administrative Code.

"On November 25, 1955, the petitioner filed before the respondent Collector of Customs for the Port of Manila a motion to dismiss the Seizure Identification Cases Nos. 3926 and 3827, which was denied by the latter in his order dated November 29, 1955. The motion for reconsideration filed by petitioner on December 2, 1955 was likewise denied by the same respondent Collector of Customs in an order dated December 5, 1955.

"On December 7, 1955, the petitioner filed before the respondent Collector of Customs a motion to have the seized garlic sold at public auction, which motion was denied in an order dated December 16, 1955.

"On December 17, 1955, the petitioner filed before this Court his omnibus petition for certiorari and mandamus with preliminary injunction."

On December 23, 1955, this Court resolved to deny the omnibus petition for certiorari and mandamus with preliminary injunction. The motion for reconsideration

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was likewise denied by resolution dated January 5, 1956. The case was subsequently elevated to the Supreme Court by certiorari, which was dismissed in G.R. No. L-10162, January 26, 1956.

In a notice of sale dated March 12, 1956, the defendant Collector of Customs announced the sale of the garlic in question at public auction to be held on March 20, 1956 at 9:00 A.M. in the premises of Pier 7, Port Area, Manila. And in a notice of postponement of sale dated March 19, 1956, the defendant postponed the public sale to March 27, 1956.

On March 26, 1956, plaintiff filed this complaint for injunction, and on April 3, 1956, the defendant filed his motion to dismiss, alleging the following:

> 1. That this Court has no jurisdiction over the person of the defendant or of the subject-matter of the complaint.
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> 2. That the complaint states no cause of action, hence the plaintiff is not entitled to the relief demanded.

It is the contention of the defendant that the order to sell, being interlocutory, is not a final decision within the meaning of section 7, Republic Act No. 1125. On the other hand, the plaintiff argues that the order to sell at public auction is not an interlocutory one issued in connection with the legal issues raised in the seizure proceedings, but is an independent action based on section 1399 of the Revised Administrative Code which is not appealable to the Commissioner of Customs pursuant to section 1380

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of the said Code. The instant case, according to the plaintiff, falls within the provisions of section 11 of Republic Act No. 1125.

The Court of Tax Appeals is a court of special and limited jurisdiction. Its organic law, Republic Act No. 1125, deliberately delimits and carefully canalizes its jurisdiction. All cases sought to be brought before this Court must find authority and justification in the organic law. Those that fail of justification are outside the province of its jurisdiction and are perforce debarred from being considered by this Court.

Section 7 of Republic Act No. 1125 in part reads:

> "SEC. 7. Jurisdiction. - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided -
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> x x x
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> "(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; x x x "

Section 11 of the same Act provides:

> "SEC. 11. Who may appeal; effect of appeal.- Any person, association or corporation adversely affected by a decision or ruling of the Collectorof Internal Revenue, the 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. x x x"

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At first blush, sections 7 and 11 of Republic Act No. 1125 are irreconcilably and diametrically divergent. Section 7 vests in the Court of Tax Appeals exclusive appellate jurisdiction to review by appeal decisions of the Commissioner of Customs. Whereas, section 11 authorizes any person, association or corporation adversely affected by a decision or ruling of the Collector of Customs to appeal to the Court of Tax Appeals. But we believe that there was no congressional intention to diversify and diffuse appeals in customs cases. Section 7 of Republic Act No. 1125 circumscribes all the cases that fall within the jurisdiction of the Court of Tax Appeals. Paragraph 1 of section 11 of said Act merely enumerates who may appeal to this Court. As we have already observed, it could not have been the intention of Congress in enumerating the persons who may appeal to this Court to modify or altogether nullify the jurisdiction of the Court in customs cases. (See Sampaguita Shoe and Slipper Factory v. Commissioner of Customs, et al., C.T.A. Case No. 59, Resolution dated October 17, 1955.) In Collector of Customs v. Commissioner of Customs, Philippine Education Co., Intervenor, C.T.A. Case No. 17, we opined: "The phrase 'Collector of Customs' appearing in the above-mentioned provision (Section 11) of Republic Act No. 1125 is clearly an oversight on the part of Congress. It should read 'Commissioner of Customs' to make the provisions conform with section 7 of said Republic Act and Section

1380 of the Revised Administrative Code." (See also Ricardo Hitosis v. The Acting Collector of Customs for the Port of Manila, C.T.A. Case No. 58, Resolution dated March 22, 1955; Rufino Lopez & Sons, Inc. v. The Collector of Customs, C.T.A. Case No. 101, Resolution dated May 23, 1955.)

We reiterate the view that until and unless the Commissioner has rendered a "decision on appeal" on the action or decision of a collector of customs may an aggrieved person, association or corporation come to this Court under Republic Act No. 1125. (See Leuterio v. Commissioner of Customs, C.T.A. Case No. 61, Resolution dated July 23, 1955; S. Ombra Amilbangsa v. Manuel Manahan, et al., C.T.A. Case No. 221, Resolution dated Dec. 23, 1955.) We cannot legally entertain an appeal from a decision of a collector of customs in the first instance without the benefit of an intermediate appeal to the Commissioner of Customs, nor can we entertain a petition to enjoin the performance of any act by a collector of customs unless it is shown that an appeal to the Commissioner would not provide a plain, speedy and adequate remedy.

In the instant case, the Collector of Customs of Manila has decided to sell the garlic at public auction pending final determination of the seizure proceedings on the ground that the goods are deteriorating. On the other hand, plaintiff seeks the release of the garlic to enable him to plant the same in accordance with the permit issued for its importation.

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We concede that if the garlic is sold at public auction and the plaintiff eventually wins the case, the action of the Collector in selling the garlic would nullify plaintiff's right to have possession of said garlic for planting purposes. This does not mean, however, that plaintiff could come direct to this Court for relief without first exhausting all administrative remedies. We believe that the law prescribes an adequate remedy to meet the situation to which plaintiff has been driven. Section 1380 of the Revised Administrative Code provides:

> "Sec. 1380. Review by Commissioner.- The person aggrieved by the decision of the collector of customs in any matter presented upon protest or by his action in any case of seizure may, within fifteen days after notification in writing by the collector of his action or decision, give written notice to the collector signifying his desire to have the matter reviewed by the Commissioner. x x x x "

We repeat that the petitioner has not yet exhausted all the administrative remedies available to him under the Administrative Code, and until this is done, the present petition is premature.

IN VIEW OF THE FOREGOING, the complaint for injunction is hereby dismissed with costs against the plaintiff.

SO ORDERED.

Manila, Philippines, May 7, 1956.

R. M. Umali

ROMAN M. UMALI
Associate Judge

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CUR:

AUGUSTO M. LUCIANO
Associate Judge

I hereby certify that Presiding Judge Mariano Nable voted for and concurred in this resolution.

AUGUSTO M. LUCIANO
Associate Judge