REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CORNELIO Q. CASIDO,
Petitioner,

-versus-

REPUBLIC OF THE PHILIPPINES, and HON. NAPOLEON L. MORALES, in his Capacity as Commissioner, Bureau of Customs,
Respondents.

C.T.A. CASE No.8087

Members:

Acosta, *Chairperson.*
Uy, *and*
Fabon-Victorino, *JJ.*

Promulgated:
FEB 08 2012, 1:31 p.m.

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DECISION

ACOSTA, *PJ:*

Before the Court is a Petition for Review which: (1) seeks to set aside and/or modify the Decision of the Commissioner of Customs dated March 12, 2010 insofar as petitioner Cornelio Q. Casido; and (2) seeks for the issuance of an order for the immediate release of "KANNY I" Tugboat and "KANNY II" Barge from the custody of the District Collector of the Port of Tacloban City in favor of petitioner as the Charterer of the tugboat and barge.

THE FACTS

As stipulated by the parties in the Joint Stipulation of Facts and Issues and as borne by the records of this case, the following are the undisputed facts:

Petitioner, Cornelio Q. Casido, is the claimant of "KANNY I" Tugboat and "KANNY II" Dumb Lighter being the charterer thereof. He may be served with summons, orders and notices in his address at Heritage Mining and Resources at No. 1, April Street, Congressional Village, Quezon City.[1]

Respondents are the Republic of the Philippines, in whose name the seizure proceedings below was filed, and the Commissioner, Bureau of Customs, Gate 3, South Harbor, Port Area, Manila, where he can be served with summons, orders and notices.[2]

Sometime in the middle part of 2007, petitioner, being the President of Heritage Resources and Mining Corporation (HRMC), a private corporation duly organized and existing under Philippine laws, which is primarily engaged in the business of mine exploration, hired and contracted the services of "KANNY I" Tugboat and "KANNY II" Dumb Lighter owned and operated by KANNY Industrial Company, Limited, an entity duly organized and existing under the laws of Hong Kong, People's Republic of China, represented by Liu Guogang.[3]

In the Bareboat Charter Agreements both dated 11 July 2007 entered into by petitioner as the charterer, and Mr. Guogang, the "KANNY I" Tugboat and "KANNY II" Dumb Lighter were specifically hired and chartered by petitioner for his sole and exclusive use as an incident to the HRMC's mining operations in the Province of Eastern Samar, Republic of the Philippines.[4]

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[1] Par. 1, Joint Stipulation of Facts, Docket, p. 229.
[2] Par. 2, *Ibid*, p. 230.
[3] Par. 3, *Id*, p. 230.
[4] Par. 4, *Id*, p. 230.

Thereafter, the two (2) vessels were delivered and docked at Homonhon Island, Eastern Samar, sometime on September 6, 2007.[5]

When the two (2) vessels, "KANNY I" Tugboat and "KANNY II" Dumb Lighter, arrived at the port of Homonhon Island, Eastern Samar, its Captain and officials, as well as petitioner, failed to/did not go to the nearest customhouse upon entry as required by Section 2530 of the Tariffs and Customs Code of the Philippines (TCCP).[6]

On September 18, 2007, elements from the Bureau of Customs (BOC) and Philippine National Police conducted a search on the two (2) vessels docked at the Port of Homonhon Island, Eastern Samar. The search on said vessels yielded the absence of any contraband goods.[7]

Thereafter, Collector Minda T. Llamas of the Sub-Port of Catbalogan, Samar, issued a Hold Order on the two (2) vessels for further investigation.[8]

Further investigation was conducted by operatives of the Intelligence and Enforcement Group (IEG) of the BOC:[9]

The Report dated October 31, 2007 of Bolivar E. Puno, IEG Investigator, states, among other things, *"While it appears that said vessels – Kanny I and II are not importations subject to duties and taxes nor it appears that it had any intention to unload goods by the established fact that no goods were found on board the two vessels, however, xxx,"* it also found the Captain wanting for compliance of Section 2519 and 2521, TCCP, and recommended that *"xxx a fine in such amount as shall be addressed to the sound discretion of the District Collector of Tacloban can be imposed against the Tugboat Kanny I and the Barge Kanny II."*[10]

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[5] Par. 5, *Id*, p. 231.
[6] Par. 6, *Id*, p. 231.
[7] Par. 7, *Id*, p. 231.
[8] Par. 8, *Id*, p. 231.
[9] Par. 9, *Id*, p. 231.
[10] Par. 10, *Id*, p. 232.

Celso P. Templo, Deputy Commissioner, BOC, concurred with the recommendation of the IEG Investigator, Mr. Bolivar Puno, to impose a fine.[11]

Then Commissioner Napoleon L. Morales forwarded to the District Collector, Port of Tacloban, the recommendation of Mr. Bolivar Puno, inviting attention to the recommendation "that a fine in such amount as shall be determined by the District Collector be imposed against such vessels pursuant to Sections 2519 and 2521 of the TCCP, as amended, for his consideration and appropriate action.[12]

Instead of imposing a fine, Collector Minda T. Llamas, in her 3rd Indorsement dated November 12, 2007, issued a warrant of seizure and detention as Seizure Identification No. 001-2007 for alleged violations of Section 2530 (F) and (L-1) of the TCCP, as amended, by petitioner.[13]

Hearings were then scheduled on November 22, 23, 26, 27 and 28, 2007.[14]

During the hearings before the BOC, Port of Tacloban, Tacloban City, the Republic presented witnesses who were present during the inspection of the two (2) vessels anchored at the Port of Homonhon Island. Said witnesses uniformly testified that there were no dutiable goods, or illegal cargo found inside the vessels in question.[15]

After the hearings were conducted, the parties were required to submit their respective position papers. The prosecution did not file their position paper. Petitioner complied and submitted his position paper.[16]

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[11] Par. 11, *Id*, p. 232.
[12] Par. 12, Id, p. 232-233.
[13] Par. 13, *Id*, p. 233.
[14] Par. 14, Id, p. 233.
[15] Par. 15, Id, p. 233.
[16] Par. 16, Id, p. 233.

In his Decision dated April 21, 2008, Leovigildo M. Dayoja, District Collector of Tacloban, ordered the forfeiture of "KANNY I" Tugboat and "KANNY II" Dumb Lighter for violation of Section 2530 (F) and (L-1), TCCP.[17]

Petitioner filed a Motion for Reconsideration dated May 5, 2008 of said decision.[18]

In a Decision dated May 7, 2008, the District Collector, Port of Tacloban, denied said motion for reconsideration for lack of merit.[19]

Petitioner filed an appeal to the Commissioner of Customs. Said appeal was docketed as Customs Case No. 05-08.[20]

In a Decision dated October 14, 2009, the Commissioner of Customs affirmed both the Decisions dated April 21, 2008 and May 7, 2008 of the District Collector, Port of Tacloban, forfeiting the two (2) vessels.[21]

Petitioner filed a Motion for Reconsideration dated November 25, 2009 with the Office of the Commissioner, BOC, which was also denied.[22]

Hence, petitioner filed this Petition for Review on April 16, 2010.

On June 7, 2010, respondents, through the Office of the Solicitor General, filed their Comment, which raised the following arguments:[23]

> I. A customs official is duty-bound to seize any vessel if it is subject to forfeiture or liable for any fine imposed under tariff and customs law, rules and regulation.
> II. The two (2) vessels are subject to forfeiture because they are articles imported from Hong Kong without going through a customhouse.
> III. The two (2) vessels are importations subject to customs duties and taxes.

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[17] Par. 17, Id, p. 234.
[18] Par. 18, Id, p. 234.
[19] Par. 19, Id, p. 234.
[20] Par. 20, Id., p.234.
[21] Par. 21, Id., p.234.
[22] Par. 22, Id, p. 234.
[23] Comment, Docket, pp. 117-151.

IV. Probable cause existed to warrant the seizure and detention of the vessels.

Respondents filed their Pre-trial Brief on June 29, 2010[24] while the petitioner filed his Pre-trial Brief on July 8, 2010.

On August 3, 2010, KANNY Industrial Company, Limited (KICL) filed a Motion for Intervention with a copy of its Intervention.[25]

On August 5, 2010, the Joint Stipulation of Facts[26] was filed by the parties.

In the hearing on August 5, 2010, the Court ordered the parties to comment on KICL's Motion for Leave to Intervene within a period of ten (10) days. The said motion was also set for hearing on September 17, 2010.

On August 16, 2010, petitioner filed his Comments and/or Opposition[27] to the Motion for Intervention. The respondents filed their Comment and/or Opposition (To Motion for Leave to Intervene)[28] on August 27, 2010.

On September 6, 2010, KICL moved for the postponement of the September 17, 2010 hearing.[29] Said motion was granted by the Court in an Order[30] dated September 7. 2010. The hearing was re-set to October 8, 2010.

In the October 8, 2010 hearing, the Court ordered the parties and the counsel for KICL to submit their respective Memoranda in support of their arguments on the Motion for Leave to Intervene within fifteen (15) days. Counsel for respondents was also ordered to transmit to the Court the Customs Records of the case within ten (10) days.

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[24] Docket, pp. 154-158.
[25] Docket, pp. 173-183.
[26] Docket, pp. 229-235.
[27] Docket, pp. 238-271.
[28] Docket, pp. 273-276.
[29] Kanny's Motion for Postponement, docket, pp. 284-286.
[30] Docket, p. 288.

KICL filed its Memorandum for the Intervenor[31] on October 27, 2010

Respondents filed a Manifestation and Motion[32] on November 15, 2010 praying that their Comment dated June 3, 2010 be adopted as their Memorandum. Said Manifestation and Motion was noted by the Court in an Order[33] dated November 22, 2010.

On February 7, 2011, the Court promulgated a Resolution denying KICL's Motion for Intervention.

KICL filed a Motion for Partial Reconsideration on March 8, 2011. On March 16, 2011, the Court ordered the petitioner and respondents to comment on KICL's Motion for Partial Reconsideration[34].

On April 14, 2011, respondents filed their Comment (On Motion for Partial Reconsideration). On June 7, 2011, KICL filed its Reply To Respondent's Comment.

In a Resolution[35] dated July 21, 2011, the Court issued a Resolution denying KICL's Motion for Partial Reconsideration.

On October 5, 2011, with the Manifestation and Motion of respondents on November 15, 2010 that they shall be adopting their Comment filed on June 3, 2010 and petitioner's failure to file its memorandum despite notice, the Court submitted the case for Decision[36].

However, on November 17, 2011, KICL filed a Motion to Defer Proceedings alleging of its filing of an appeal over the Court's denial of its Motion for Intervention.

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[31] Docket, pp. 292-300.
[32] Docket, pp. 304-311.
[33] Docket, p. 410.
[34] Docket, pp. 411-412.
[35] Docket, pp. 435-439.
[36] Docket, p. 441.

On December 15, 2011, the Court denied KICL's Motion to Defer Proceedings.

THE ISSUES

The parties, similarly raised the issue of:

> Whether the two (2) vessels, namely KANNY I Tugboat and KANNY II Dumb Lighter are liable only for seizure and forfeiture under violation of Section 2530 (F) and (L) (1) of the TCCP.

THE ARGUMENTS OF THE PARTIES

Petitioner's Arguments

Petitioner asserts that the Decision of the District Collector is contrary to the fact and law of the case. He alleges that the reasons cited by the District Collector were anchored only on suspicion and the truth of the matter is that in the investigation, there was no contraband nor any dutiable goods or illegal cargo found in the subject vessels. Also, petitioner highlights that the reports and recommendations which form part of the case did not support the seizure of said vessels. Corollary, petitioner believes that there was no finding of probable cause that warranted the imposition of seizure as provided in Section 2535 of the TCCP, considering that the essential elements or requirements for a violation of Section 2530 (F) and (L-1) are absent because the provisions refer to an article and not to a vessel.

Petitioner further avers that subject vessels are merely liable for administrative fines and not forfeiture. He argues that the initial finding of administrative fines found by the IEG is correct.

Lastly, petitioner asserts that the subject vessels are not liable for forfeiture since the owner or his agent, herein petitioner, has no knowledge of any participation in the unlawful act and that there was no unlawful importations since the same should be considered only as used in coastwise trade within the Philippines.

Respondents' Arguments

Respondents, on the other hand, assert that even if the subject vessels were only liable for fine, the same may still be subject of forfeiture under Section 2205 of the TCCP. Also, respondents argue that the IEG report from which petitioner anchors his allegation was merely recommendatory and that it is the District Collector who has sole jurisdiction to issue the warrant of seizure and detention.

Further, respondents assert that petitioner's argument of no knowledge of the unlawful act deserves scant consideration because the mere failure of the vessels to pass through a customhouse, as required in section 1201 of the TCCP, despite the lack findings of any contraband in the vessel, is against Section 2530 of the TCCP. Moreover, since forfeiture proceedings are in *rem*, respondent argues that the forfeiture is against the *res*, hence, it is no defense that the owner or agent of the vessel had no actual knowledge of the illegal property. Respondents further aver that section 2530 of the TCCP does not only refer to articles but also vessels.

Likewise, respondents allege that the subject vessels are dutiable articles under Heading 89.04-05 of Chapter 89 of the TCCP, thus, are required by law to touch at ports of entry that are subject to the authority of the Collector of the port within his jurisdiction.

Lastly, respondents maintain that petitioner belatedly raised the lack of probable cause, thus, he should be considered waived from raising it. Nevertheless, respondents still assert that attending circumstances such as the surreptitious entry of the subject vehicles to the island of Homonhon, an ideal place and a very convenient site to facilitate unlawful entry of foreign vehicles from detection of customs authorities because of lack of customs personal, among others, clearly establish and constitute probable cause to forfeit said vessels.

THE DECISION OF THE COURT

Upon careful consideration of the evidence on record and the arguments raised by the parties, We find the petition devoid of merit.

On the onset, it bears stressing that the forfeiture of seized goods in the Bureau of Customs is a proceeding against the goods and not against the owner. It is in the nature of a proceeding *in rem, i.e.,* directed against the *res* or imported articles and entails a determination of the legality of their importation. In this proceeding, it is, in legal contemplation, the property itself which commits the violation and is treated as the offender, *without reference whatsoever to the character or conduct of the owner.*[37]

Section 2530 of the TCCP enumerates the properties subject to forfeiture, *viz*:

> **Section 2530. Property Subject to Forfeiture Under Tariff and Customs Law. —** Any vehicle, vessel or aircraft and other objects shall, under the following conditions be subjected to forfeiture:
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> a. Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of articles or in conveying and/or transporting contraband or smuggled articles in commercial quantities into or from any Philippine port or place. The mere carrying or holding on board of contraband or smuggled articles in commercial quantities shall subject such vessel, vehicle, aircraft or any other craft to forfeiture; Provided, That the vessel, or aircraft or any other craft is not used as duly

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[37] *Asian Terminals, Inc. vs. Ricafort, Et. Al.*, GR No. 166901, October 27, 2006 *citing Transglobe International, Inc. vs. Court of Appeals*, GR No. 126634, January 25, 1999.

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authorized common carrier and as such a carrier it is not chartered or leased;

b. Any vessel engaging in the coastwise which shall have on board any article of foreign growth, produce, or manufacture in excess of the amount necessary for sea stores, without such article having been properly entered or legally imported;

c. Any vessel or aircraft into which shall be transferred cargo unladen contrary to law prior to the arrival of the importing vessel or aircraft at her port of destination;

d. Any part of the cargo, stores or supplies of a vessel or aircraft arriving from a foreign port which is unladen before arrival at the vessel's or aircraft's port of destination and without authority from the customs officials; but such cargo, ship or aircraft stores and supplies shall not be forfeited if such unlading was due to accident, stress of weather or other necessity and is subsequently approved by the Collector;

e. Any article which is fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard or container freight station under customs supervision;

f. Any article the importation or exportation of which is effected or attempted contrary to law, or any article of prohibited importation or exportation, and all other articles which, in the opinion of the Collector, have been used, are or were entered to be used as instruments in the importation or exportation of the former;

g. Unmanifested article found on any vessel or aircraft if manifest therefor is required;

h. Sea stores or aircraft stores adjudged by the Collector to be excessive, when the duties assessed by the Collector thereon are not paid or secured forthwith upon assessment of the same;

i. Any package of imported article which is found by the examining official to contain any article not specified in the invoice or entry, including all other packages purportedly containing imported articles similar to those declared in the invoice or entry to be the contents of the misdeclared package; Provided, That the Collector is of the opinion that the misdeclaration was contrary to law;

j. Boxes, cases, trunks, envelopes and other containers of whatever character used as receptacles or as device to conceal article which is itself subject to forfeiture under the tariff and customs laws or which is so designed as to conceal the character of such articles;

k. Any conveyance actually being used for the transport of articles subject to forfeiture under the tariff and customs laws, with its equipage or trappings, and any vehicle similarly used, together with its equipage and appurtenances including the beast, steam or other motive power drawing or propelling the same. The mere conveyance of contraband or smuggled articles by such beast or vehicle shall be sufficient cause for the outright seizure and confiscation of such beast or vehicle, but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, is engaged as common carrier and not

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chartered or leased, or his agent in charge thereof at the time, has no knowledge of the unlawful act;

l. Any article sought to be imported or exported:

(1) Without going through a customhouse, whether the act was consummated, frustrated or attempted;
(2) By failure to mention to a customs official, articles found in the baggage of a person arriving from abroad;
(3) On the strength of a false declaration or affidavit executed by the owner, importer, exporter or consignee concerning the importation of such article;
(4) On the strength of a false invoice or other document executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article; and
(5) Through any other practice or device contrary to law by means of which such articles was entered through a customhouse to the prejudice of the government. (Emphasis provided)

In the case at bar, the subject vessels, namely "KANNY I" Tugboat and "KANNY II" Dumb Lighter, were forfeited by the BOC for alleged violation of Section 2530 (f) (l-1) of the TCCP.

Based on the foregoing Section, it is incumbent that the subject vessels are to be considered articles: (a) the importation or exportation of which was effected or attempted contrary to law; (b) said importation or exportation were prohibited; (c) which, in the opinion of the Collector, have been used or were entered to be used as instruments in the importation or exportation of prohibited articles; or (d) the importation or exportation thereof were consummated, frustrated or attempted without going through a customhouse.

Notably, under Section 2535[38] of the TCCP, before any seizure and/or forfeiture proceedings of any vessel, vehicle, aircraft, beast or articles is/are

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[38] Section 2535. Burden of Proof in Seizure and/or Forfeiture – In all proceedings taken for for the seizure and/or forfeiture of any vessel, vehicle, aircraft, beast or articles under the provisions of the tariff and customs laws, the burden of proof shall lie upon the claimant: Provided, That probable cause shall be first shown for the institution of such proceedings and the seizure and/or forfeiture was made under the circumstances and in the manner under the preceding sections of this Code.

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undertaken, there must exist the presence of probable cause and once established, the burden now shifts to the claimant.

Probable cause is the existence of such facts and circumstances which would lead a reasonable, discreet, and prudent man to believe that an offense has been committed and that the objects sought in connection with the offense are in the place to be searched.[39] It is such a state of facts in the mind of the prosecutor as would lead a person of ordinary caution and prudence to believe or entertain an honest or strong suspicion that a thing is so. The term does not mean "actual or positive cause;" nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Thus, a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charge."[40]

We give credence to the arguments laid by the respondents that there was indeed probable cause to make the forfeiture of the subject vessels.

First, the entry of the subject vessels was surreptitiously made in a seaport that is not considered a port of entry in Homonhon, an island where there is no customhouse and no customs personnel who will monitor the entry and exit of vessels.

Second, according to the Bareboat Charter Agreements[41] presented by petitioner, the subject vessels were for the sole and exclusive use of the company as an incident to its mining operation. Said usage requires a permit/license from the Maritime Industry Authority (MARINA) pursuant to

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[39] *Sony Music Entertainment (Phils.), Inc. vs. Español,* GR No. 156804, March 14, 2005.
[40] *Villanueva vs. Secretary of Justice and Sprengeisen,* GR No. 162187, November 18, 2005 citing *Baytan vs. COMELEC,* GR No. 153945, February 4, 2003.
[41] Section 2 of Annex B, Docket, p. 30 and Section 2 of Annex C, Docket, p. 35.

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Republic Act (RA) No. 9295[42]. It also requires a certification of payment from the BOC that will show payment of the duties and taxes paid thereon, in accordance with Customs Memorandum Order (CMO) No. 25-1007[43]. However, it appears from the records[44] that petitioner sent a letter-application dated September 18, 2007 to MARINA only on October 8, 2007. The actuation of belatedly registering the subject vessels to the MARINA appears to be a mere afterthought for were it not for the apprehension by the BOC officials on September 18, 2007, petitioner would not have registered the entry of said vehicles to the proper authorities.

Third, based on the documents also presented by the petitioner to the BOC, the said vessels were covered only by Provisional Certificate of Registry Nos. 15459207[45] and 15468507[46], respectively, issued by the Tuvalu Ship Registry, Republic of Tuvalu, Polynesia, for single delivery ballast voyage for a period of two months only, or from July 26, 2007 to September 26, 2007. According to the Tuvalu Ship Registry, the registration for a single delivery voyage is usually for a sale of a vessel, for scrap or demolition or transfer to a dockyard.[47] It is notable also that the registration was limited to a period of only two (2) months despite the provision of the Bareboat Charter Agreements stating the duration of the contract to be two (2) years. Based on the foregoing, It appears, therefore, that the registration under the Tuvalu Ship Registry was really for the purpose of a sale that is to take place within a period of two (2) months from the date of registry.

Fourth, the subject vessels were already docked in Homonhon Island for almost twelve (12) days before the BOC was able to search subject vessels. It is quite disturbing that in those twelve (12) days, the master of said vessels failed to report to any customs authority in order to make the proper entry.

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[42] "An Act Promoting the Development of Philippine Domestic Shipping, Shipbuilding, Ship Repair and Ship Breaking, Ordaining Reforms in Government Policies Towards Shipping in the Philippines and for Other Purposes".
[43] "Clearance Requirement for Initial and Renewal Registration of Imported Vessels Pursuant to Memorandum of Agreement (MOA) Between Maritime Industry Authority (MARINA) and Bureau of Customs."
[44] Customs Records, p. 299.
[45] Customs Records, p. 317.
[46] Customs Records, p. 318.
[47] http://www.tvship.com/SpecialRegistration.aspx.

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Considering the foregoing, there was overwhelming evidence to justify respondents' institution of the proceedings. Thus, the burden of proving the illegality of the forfeiture is now shifted to the claimant, the petitioner.

Unfortunately, the petitioner failed to convince Us that the subject vessels were not importation liable for forfeiture. Petitioner did not present any evidence that the customs duties and taxes for the importation of the subject vessels were paid nor an attempt of payment was made. We cannot only rely on the report of the IEG on the imposition of fines. The IEG Report was merely recommendatory as the sole authority to determine the issuance of a warrant rests solely with the Collector.[48] The weight of evidence favors the respondents in this case.

Basic is the rule that evidence shall be weighed according to the proof which the party was in the power of one side to have produced, and in the power of the other to have contradicted, and the reasonableness of the evidence given, in view of the surrounding circumstances and the inherent probabilities, should be considered in determining its weight.[49]

Since it is clear that seizure and forfeiture proceedings under the TCCP are not criminal in nature as they do not result in conviction of the offender nor in the imposition of penalty provided in Section 2301 of the Code and since seizure proceedings, such as those instituted in this case, are purely civil and administrative in character, the degree of proof required is merely substantial evidence, which means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[50]

In the case at bar, We find that the Government has presented substantial evidence to establish that an illegal importation has been

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[48] Section 2301, TCCP.
[49] Peralta, Perspective of Evidence, 2005 ed., p. 533, citing Francisco, The Revised Rules of Court in the Philippines, Evidence, Part II, 1991 ed., p. 430.
[50] *Feeder International Line, Pte., Ltd. vs. Court of Appeals*, GR No. 94262, May 31, 1991.

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committed by the petitioner with the illegal entry of the subject vessels, warranting the forfeiture of said vessels pursuant to the provisions of the TCCP.

We cannot countenance the reasoning of petitioner that the subject vessels were merely liable for administrative fine under Sections 2519 and 2521 of the TCCP since they did not carry any contraband or smuggled items.

It is very clear, as discussed in the foregoing, that petitioner violated a provision of the TCCP, particularly Section 1201[51] when the subject vessels did not enter a customhouse at a port of entry, thus, Sections 2530 (f) and (l-1) becomes operative.

Similarly, there is no merit to petitioner's aversion that the subject vessels are not articles contemplated in Section 2530 of the TCCP. When used with reference to importation and exportation, articles include goods, merchandise and in general anything that maybe made the subject of importation or exportation.[52] Concomitantly, ships, boats and floating structures such as the subject vessels are dutiable articles under Heading 89.04-.05 of Chapter 89 of the TCCP. There is no question that the subject vessels may be considered articles subject of importation.

Likewise, the assertion that the subject vessels are not liable for forfeiture because the owner or his agent, herein petitioner, has no knowledge of any participation in the unlawful act is bereft of merit. It is no defense that the owner of the vessel sought to be forfeited had no actual knowledge that his property was used illegally. The absence of lack of actual knowledge of such use is a defense personal to the owner himself which cannot in any ay absolve the vessel from the liability of forfeiture.[53] Thus, petitioner's lack of knowledge and participation to the importation does not divest the respondents' prerogative to forfeit the subject vessels.

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[51] Section 1201. Articles to be Imported Only Through Customhouse – All articles imported into the Philippines whether subject to duty or not shall be entered through a customhouse at a port of entry.
[52] The Conquero, 166 US110, 41 L Ed 937, 17 S Ct 510.
[53] *Commissioner of Customs vs. Manila Star Ferry, Inc.*, GR Nos. L-31776-78, October 21, 1993.

WHEREFORE, premises considered, the present Petition for Review is hereby **DISMISSED** for lack of merit. The Decision of the Commissioner of Customs dated March 12, 2010 is hereby **AFFIRMED**.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division