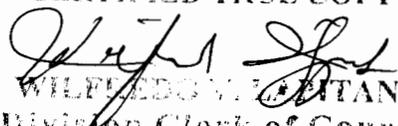




Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO VELASCO
 Division Clerk of Court
 Third Division
 DEC 27 2016

THIRD DIVISION

COMMISSIONER OF CUSTOMS, **G.R. No. 181007**
 Petitioner,

Present:

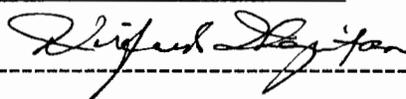
VELASCO, JR., J.,
Chairperson,
 PERALTA,*
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

- versus -

WILLIAM SINGSON AND
TRITON SHIPPING
CORPORATION,
 Respondents.

Promulgated:

November 21, 2016



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DECISION

REYES, J.:

This appeal by Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeks to reverse and set aside the Decision² dated November 16, 2006 and the Resolution³ dated November 29, 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 83282 affirming the Decision⁴ dated November 18, 2003 and the Resolution⁵ dated March 22, 2004 of the Court of Tax Appeals (CTA) in CTA Case No. 6406, which recalled and set

* On official leave.

¹ *Rollo*, pp. 19-34.

² Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Romeo F. Barza and Priscilla Baltazar-Padilla concurring; id. at 36-43.

³ Id. at 44.

⁴ Penned by Associate Judge Lovell R. Bautista, with Presiding Judge Ernesto D. Acosta and Associate Judge Juanito C. Castañeda, Jr. concurring; id. at 97-106.

⁵ Id. at 115.

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aside the Warrant of Seizure and Detention (WSD) issued against the vessel M/V Gypsy Queen and its cargo of 15,000 bags of rice.

The Facts

Triton Shipping Corporation (TSC) is the owner of M/V Gypsy Queen. The vessel was loaded with 15,000 bags of rice shipped by Metro Star Rice Mill (Metro Star) of Bocaue, Bulacan and consigned to William Singson (Singson). On September 5, 2001, the elements of the Philippine Navy (PN) apprehended and seized the vessel and its entire rice cargo somewhere in Caubayan Island, Cebu, for allegedly carrying suspected smuggled rice.⁶

During the inspection, the master of M/V Gypsy Queen presented the following documents: (1) Master's Oath of Safe Departure dated August 14, 2001; (2) Coasting Manifest indicating that the vessel was loaded with 15,000 bags of rice with Metro Star of Bocaue, Bulacan as the shipper and Raybrig Marketing of Cebu City/Singson as consignee; and (3) Roll Book showing that the vessel was cleared by the Philippine Ports Authority (PPA), North Harbor Office, Manila on August 14, 2001 and received by a certain PO3 Fernandez of the Philippine Coast Guard (PCG) in Manila.⁷

However, the PCG Station Commander in Manila, Jose G. Cabilo issued a Certification stating that: (1) there was no vessel named M/V Gypsy Queen that logged in or submitted any Master's Oath of Safe Departure on August 15, 2001; and (2) no personnel by the name of PO3 Fernandez of the PCG was detailed at Pier 18, Mobile Team, on August 15, 2001.⁸ These matters were then conveyed to the District Collector of Customs (DCC) by Captain Alvin G. Urbi (Capt. Urbi), Commander, Naval Forces Central, PN in his letter dated September 12, 2001. Thereafter, Special Investigator Alejandro M. Bondoc of the Bureau of Customs (BOC) in Cebu, issued a memorandum dated September 17, 2001 recommending the issuance of a WSD against the vessel and the 15,000 bags of rice loaded therein.⁹

Accordingly, on September 18, 2001, the DCC of Port of Cebu, issued a WSD against M/V Gypsy Queen and the 15,000 bags of rice for violating the Tariff and Customs Code (TCC). Afterwards, forfeiture proceedings were conducted where both parties submitted their respective evidence.¹⁰

⁶ Id. at 36-37.

⁷ Id. at 37.

⁸ Id.

⁹ Id.

¹⁰ Id. at 37-38.

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On December 18, 2001, the DCC rendered a Decision¹¹ in favor of TSC and Singson (respondents) and ordered the release of M/V Gypsy Queen and the said cargo on the ground that there was no evidence to establish a cause of action, thus:

WHEREFORE, premises considered, and by virtue of the powers vested in me by law, the [WSD] in the above[-]captioned case is hereby ordered RECALLED and SET ASIDE. Accordingly, the subject 15,000 bags of rice and the vessel "M/V GYPSY QUEEN" are ordered RELEASES [sic] to their respective claimants or their duly authorized representative upon proper identification and compliance with applicable laws, rules and regulations.¹²

On December 19, 2001, the DCC issued a 1st Indorsement of the said decision and forwarded the entire records of the case to the Commissioner of Customs (petitioner), through its Legal Service, BOC, Manila. On January 29, 2002, the BOC, Legal Service referred the decision of the DCC for approval to the petitioner.¹³

On March 11, 2002, the petitioner issued the 2nd Indorsement¹⁴ reversing and setting aside the decision of the DCC and ordered the forfeiture of M/V Gypsy Queen and its cargo.

The respondents filed a motion for reconsideration of the said indorsement but the same was denied. On March 12, 2002, the respondents filed a petition for review¹⁵ with the CTA, and the petitioner submitted its Comment¹⁶ on April 16, 2002.¹⁷

On November 18, 2003, the CTA reversed and set aside¹⁸ the 2nd Indorsement issued by the petitioner and adopted the findings of the DCC. In arriving at the said decision, the CTA found that the documents submitted by the respondents were sufficient to prove that the 15,000 bags of rice apprehended on board M/V Gypsy Queen were locally sourced and were the same rice that were withdrawn from the National Food Authority (NFA) of Zambales.¹⁹

¹¹ Id. at 45-60.

¹² Id. at 59-60.

¹³ Id. at 38.

¹⁴ Id. at 61.

¹⁵ Id. at 62-85.

¹⁶ Id. at 86-95.

¹⁷ Id. at 39.

¹⁸ Id. at 97-106.

¹⁹ Id. at 104.

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Undaunted, the petitioner moved for reconsideration²⁰ but it was denied;²¹ hence, it filed a petition for review²² under Rule 43 before the CA.

On November 16, 2006, the CA affirmed the CTA's decision on the ratiocination that the certification issued by PCG Station Commander in Manila cannot create a presumption that M/V Gypsy Queen was involved in an illegal activity in violation of the TCC. The said certification standing alone and by itself cannot prove the alleged violation of the TCC. The record clearly showed that the vessel originated and sailed from Manila to Cebu and that the 15,000 bags of rice on board the vessel were not imported but locally purchased or sourced from NFA Zambales.²³ More so, the CA expressly pointed out that:

Furthermore, it is an undisputed fact that, on February 7, 2002, BOC Deputy Commissioner Gil A. Valera wrote a letter to the [NFA] Administrator, Atty. Anthony R. Abad, requesting confirmation of the genuineness and authenticity of the NFA documents issued by NFA Zambales which were submitted by the respondents in the forfeiture proceedings. On February 15, 2002, the NFA confirmed the authenticity and genuineness of the documents as certified to by Manager Absalum R. Circujales, NFA, Iba, Zambales. It is well to note that petitioner failed to assail and rebut these pieces of evidence presented by respondents during the forfeiture proceedings which were confirmed as genuine and authentic which showed that the rice withdrawn from NFA Zambales were the same rice apprehended on board the vessel M/V "Gypsy Queen."²⁴

Disagreeing with the CA's decision, the petitioner filed a motion for reconsideration²⁵ which was also denied;²⁶ hence, the petitioner now seeks recourse to this Court *via* a petition for review on *certiorari*.

The Issue

The main issue in this case is whether or not the CA erred in affirming the CTA's decision ordering the release of the 15,000 bags of rice and its carrying vessel.²⁷

²⁰ Id. at 107-113.

²¹ Id. at 115.

²² Id. at 116-131.

²³ Id. at 40-41.

²⁴ Id. at 42.

²⁵ Id. at 194-199.

²⁶ Id. at 44.

²⁷ Id. at 26.

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Ruling of the Court

The petition is bereft of merit.

The Court adopts the above-mentioned findings of fact of both the CTA and the CA. It is settled that the factual findings of the CTA, as affirmed by the CA, are entitled to the highest respect and will not be disturbed on appeal unless it is shown that the lower courts committed gross error in the appreciation of facts.²⁸

In the main, the petitioner argues that the 15,000 bags of rice were unlawfully imported into the Philippines; hence, there was legal ground for the forfeiture of the rice and its carrying vessel. The petitioner solely rely its argument on the certification issued by the PCG Station Commander in Manila, which was included in the parties' Joint Stipulation filed with the CTA, to wit:

1.3 That [Capt. Urbi], Commander, Naval Forces Central, [PN], in his letter to the [DCC] of Cebu dated 12 September 2001, stated among others, that verification made by his office with the Office of the Station Commander, Coast Guard Station, Manila, show that there was no vessel named MV "Gypsy Queen" that logged-in or submitted any Master's Oath of Safe Departure on 15 August 2001. It also found that no personnel by the name [of] PO3 Fernandez, PCG, was detailed at Pier 18, Mobile Team on said date.²⁹

This judicial admission, according to the petitioner, is more than enough to establish that the rice shipment was illegally transported.³⁰

Clearly, this evidence does not suffice. The said certification is not sufficient to prove that the respondents violated the TCC. A reading of the said certification plainly shows that if there is something which was admitted, it is nothing more than the fact that Capt. Urbi sent a communication to the DCC of Cebu stating the information that he gathered from the PCG Station Commander in Manila, and not the truthfulness or veracity of those information.

The certification presented by the petitioner does not reveal any kind of deception committed by the respondents. Such certification is not adequate to support the proposition sought to be established which is the commission of fraud. It is erroneous to conclude that the 15,000 bags of rice

²⁸ *Filinvest Development Corporation v. Commissioner of Internal Revenue*, 556 Phil. 439, 446 (2007).

²⁹ *Rollo*, p. 27.

³⁰ *Id.*

were smuggled simply because of the said certification which is not conclusive and cannot overcome the documentary evidence of the respondents showing that the subject rice was produced and acquired locally.

Moreso, at the time the vessel and its cargo were seized on September 25, 2001, the elements of the PN never had a probable cause that would warrant the filing of the seizure proceedings. In fact, the petitioner ordered the forfeiture of the rice cargo and its carrying vessel on the mere assumption of fraud. Notably, the 2nd Indorsement issued by the petitioner failed to clearly indicate any actual commission of fraud or any attempt or frustration thereof.

The Court has constantly pronounced that the policy is to place no unnecessary hindrance on the government's drive, not only to prevent smuggling and other frauds upon Customs, but more importantly, to render effective and efficient the collection of import and export duties due the State to enable the government to carry out the functions it has been instituted to perform.³¹

Nonetheless, the TCC requires the presence of probable cause before any proceeding for seizure and/or forfeiture is instituted. The relevant provision governing the present case is Section 2535 which provides as follows:

Sec. 2535. *Burden of Proof in Seizure and/or Forfeiture.* – In all proceedings taken 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 that seizure and/or forfeiture was made under the circumstances and in the manner described in the preceding sections of this Code.

Based on the afore-quoted provision, before forfeiture proceedings are instituted, the law requires the presence of probable cause which rests on the petitioner who ordered the forfeiture of the shipment of rice and its carrying vessel. Once established, the burden of proof is shifted to the claimant.

Guided by the foregoing provision, to warrant the forfeiture of the 15,000 bags of rice and its carrying vessel, there must be a prior showing of probable cause that: (1) the importation or exportation of the 15,000 bags of rice was effected or attempted contrary to law, or that the shipment of the 15,000 bags of rice constituted prohibited importation or exportation; and (2)

³¹ *Agriex Co., Ltd. v. Villanueva*, G.R. No. 158150, September 10, 2014, 734 SCRA 533, 555-556, citing *Subic Bay Metropolitan Authority v. Rodriguez, et al.*, 633 Phil. 196, 211 (2010).

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the vessel was used unlawfully in the importation or exportation of the rice, or in conveying or transporting the rice, if considered as contraband or smuggled articles in commercial quantities, into or from any Philippine port or place.³²

Still, the petitioner contends that the probable cause was established by the said certification that no vessel by the name of M/V Gypsy Queen logged in or submitted a Master's Oath of Safe Departure on August 15, 2001.

This assertion is erroneous and irrational. It was heedless on the part of the petitioner to institute forfeiture proceeding on the basis of that certification alone. A review of the records of the case shows that there was no probable cause to justify the forfeiture of the rice cargo and its carrying vessel. To prove that the rice shipment was imported, the respondents submitted the following pieces of evidence supporting the validity and regularity of the shipment:

1. For the vessel:
 - a) the Master's Oath of Safe Departure dated August 14, 2001 (Exhibits "G", "G-1", and "G-2");
 - b) the Roll Book showing that M/V Gypsy Queen was cleared by the PPA, North Harbor Office, Manila on August 14, 2001 (Exhibits "P");
 - c) Official Receipt No. 44191451 issued by the PPA for payment of port and other charges upon the said vessel dated August 14, 2001 in the amount of ₱3,300.00 (Exhibit "5"); and
 - d) the Bill of Lading showing that the vessel loaded with 15,000 bags of rice sailed from Manila to Cebu for the consignee, Ray Brig Marketing/Singson (Exhibit "4").

2. For the cargo:
 - a) Official Receipt No. 0703 issued by the Harbour Centre Port Terminal, Inc. dated August 14, 2001 in the amount of ₱65,160.00, and another Official Receipt evenly dated August 14, 2001 in the amount of ₱3,030.26 showing that proper usage

³² See *M/V "Don Martin" Voy 047 and its Cargoes of 6,500 Sacks of Imported Rice, Palacio Shipping, Inc., and Leopoldo "Junior" Pamulaklakin v. Hon. Secretary of Finance, BOC, and the District Collector of Cagayan De Oro City*, G.R. No. 160206, July 15, 2015.

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and other port charges upon the said cargo were duly paid (Exhibits "10" and "11").

Besides, the records showed that the 15,000 bags of rice were of local origin, having been purchased from NFA Zambales pursuant to the Open Sale Program of the NFA. The findings of fact of the CTA on this matter are informative:

Pursuant to the Open Sale Program of the NFA wherein the NFA would openly sell its imported stocks to interested individual retailers and encourage these retailers to buy the stocks in order that the older stocks can be disposed of in the warehouses to accommodate the incoming imported rice, Memorandum No. RO3-140 No. 01-06-010 dated June 4, 2001 was issued by the Regional Manager II of NFA endorsing to the NFA Manager of Zambales the accredited individual retailers of NFA Nueva Ecija. Among the accredited individual retailers were Jose Navarro and Emmanuel Jacinto. Emmanuel Jacinto was able to buy from the open sale 7,000 bags of NFA rice. He likewise purchased NFA rice from Jose Navarro and Manuel Sevilla, a retailer from Bulacan. Emmanuel Jacinto then sold 17,000 bags of NFA rice to [Metro Star]. The parties admit that all documents issued by the NFA Zambales, relative to the said Open Sale Program such as the Certifications issued by the NFA Zambales Senior Grains Operations Officer, the Official Receipts, the NFA Authority to Issue and the NFA Warehouse Stocks Issue were duly confirmed as genuine by then NFA Administrator R.A. Abad in his letter dated February 15, 2002 to Customs Deputy Commissioner Gil Valera.

Subsequently, Metro Star sold 15,000 bags of rice to Raybrig Marketing owned by [Singson] in the amount of P12,050,000.00. [Singson] is duly registered to engage in Wholesaling/Importing Rice under Grains Business License issued by the NFA. Emmanuel Jacinto testified that these 15,000 bags of rice were taken from the 17,000 bags of imported NFA rice sold by him to [Metro Star]. It was Metro Star that delivered the 15,000 bags of NFA rice sold from its warehouse in Bocaue, Bulacan to Manila for loading. It was the charterer who arranged for the shipment of the 15,000 bags of rice on board M/V "Gypsy Queen" from Manila to Cebu. The shipment of the said 15,000 bags of rice was covered by a Bill of lading with [Metro Star] of Bulacan as Shipper and [Singson] of Raybrig Marketing in Cebu City as Consignee. And M/V "Gypsy Queen" paid the proper charges and other fees to the [PPA] in the amount of P3,030.00 as shown by Official Receipt No. 44191451 relative to said shipment.³³ (Citations omitted)

From the foregoing, it is clear that the respondents had sufficiently established that the 15,000 bags of rice were of local origin and there were no other circumstances that would indicate that the same were fraudulently transported into the Philippines. As such, the release of the rice cargo and its carrying vessel is warranted.

³³ Rollo, pp. 103-104.

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WHEREFORE, the petition is **DENIED**. The Decision dated November 16, 2006 and the Resolution dated November 29, 2007 of the Court of Appeals in CA-G.R. SP No. 83282 are **AFFIRMED**.

SO ORDERED.



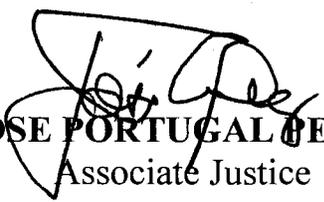
BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

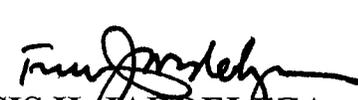


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

(On official leave)
DIOSDADO M. PERALTA
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

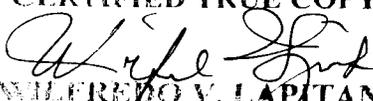
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
DEC 27 2016

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