



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

**SECRETARY OF THE G.R. No. 168137
DEPARTMENT OF FINANCE,**
Petitioner,

Present:

- versus -

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

**COURT OF TAX APPEALS
(SECOND DIVISION) AND
KUTANGBATO CONVENTIONAL
TRADING MULTI-PURPOSE
COOPERATIVE,¹**

Promulgated:

Respondents.

AUG 07 2013 *Harcabalo*

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RESOLUTION

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*² are the Resolutions dated December 21, 2004³ and April 18, 2005⁴ of the Court of Tax Appeals - Second Division (CTA) in C.T.A. Case No. 7028, granting private respondent Kutangbato Conventional Trading Multi-Purpose Cooperative's (KCTMPC) Motion to Release Goods Under Bond⁵ (motion to release).

The Facts

On the strength of a Warrant of Seizure and Detention issued on January 31, 2003 (seizure warrant) by the Bureau of Customs, 4th Collection District, Batangas (BoC), 73 container vans loaded with 29,796 bags of

¹ "Kutang Bato Conventional Trading Multi-Purpose Cooperative" in some parts of the records.

² *Rollo*, pp. 2-42.

³ *Id.* at 156-157. Issued by Associate Justices Juanito C. Castañeda, Jr., Olga P. Enriquez, and Erlinda P. Uy.

⁴ *Id.* at 44-47. Issued by Associate Justices Juanito C. Castañeda, Jr. and Erlinda P. Uy, with Associate Justice Olga P. Enriquez dissenting.

⁵ *Id.* at 146-148. Dated October 18, 2004.

imported rice (subject goods) were seized and detained for alleged violation of Section 2530⁶ of Republic Act No. (RA) 1937,⁷ otherwise known as the “Tariff and Customs Code of the Philippines” (TCCP).⁸ The shipment, which came from Polloc, Cotabato, was destined for Manila on board the inter-island vessel M/V Nossa Senhora de Fatima and was initially intercepted on January 30, 2003 in the Batangas Bay area by the combined elements of the Philippine Coast Guard, Presidential Security Guard, Batangas Customs Police-Enforcement and Security Service, and Customs Intelligence & Investigation Service. Upon inspection, it was discovered that the shipment did not have the required import permit and that the shipment was declared in the Coasting Manifest and Bill of Lading of the vessel as “corn grits,” instead of rice, in violation of the TCCP.⁹ The seizure was thereafter, docketed as Batangas Seizure Identification No. 02-03.¹⁰

On February 7, 2003, KCTMPC, claiming ownership over the foregoing shipment, moved to intervene in the seizure proceedings and further sought the quashal of the seizure warrant.¹¹ In an Order dated March 18, 2003, the BoC granted KCTMPC’s motion to intervene but denied its motion to quash seizure warrant.¹²

The Proceedings Before the BoC and the Department of Finance

After the formal hearing of the case, District Collector of Customs Edward P. Dela Cuesta (Dela Cuesta), rendered a Decision¹³ dated April 4, 2003 in favor of KCTMPC, ordering the release of the 73 container vans loaded with the subject goods.

Dela Cuesta found that KCTMPC did not transgress Section 2503 of the TCCP since there was no importation involved but only a transport of local commodities which is beyond the ambit of the TCCP.¹⁴ This is due to

⁶ Id. at 60. In particular, paragraphs (F), (G), (L)1, (L)3, and (L)5, Section 2530 of the TCCP.

⁷ “AN ACT TO REVISE AND CODIFY THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES.”

⁸ *Rollo*, p. 48.

⁹ Id. at 48-49.

¹⁰ Id. at 48 and 114.

¹¹ Id. at 49.

¹² Id.

¹³ Id. at 48-66.

¹⁴ Id. at 62-63. According to Dela Cuesta, Section 2503 of the TCCP pertains to misdeclarations/misclassifications on the face of the import entry, and before payment of assessable taxes and duties which does not hold true in the case at bar. In this light, he cites Section 1202 of the TCCP which provides that importation is deemed terminated upon payment of duties and taxes, and after the goods have left the jurisdiction of the customs. The foregoing TCCP provisions pertinently read as follows:

Sec. 1202. *When Importation Begins and Deemed Terminated.* - Importation begins when the carrying vessel or aircraft enters the jurisdiction of the Philippines with intention to unlade therein. **Importation is deemed terminated upon payment of the duties, taxes and other charges due upon the articles**, or secured to be paid, at a port of entry and the legal permit for withdrawal shall have been granted, or in case said articles are free of duties, taxes and other charges, until they have legally left the jurisdiction of the customs.

Sec. 2503. *Undervaluation, Misclassification and Misdeclaration in Entry.* - When the dutiable value of the imported articles shall be so declared and entered that the duties, based on the declaration of the importer **on the face of the entry**, x x x. (Emphases supplied)

the fact that KCTMPC's importation of assorted commodities, including the subject goods, from Labuan, Malaysia for the period of November 10, 2002 to January 26, 2003, had already been cleared under different Informal Import Declarations and Entry Numbers and that the corresponding leviable duties and taxes due thereon had likewise been paid.¹⁵ The subject goods had also been released from the customhouse and hence, had already left the jurisdiction of the BoC.¹⁶ Dela Cuesta also pointed out that KCTMPC was issued a special permit/authority by the Regional Secretary of the Department of Trade and Industry, Cotabato City (DTI) and by the Department of Agriculture, *inter alia*, to engage in conventional trading via the Labuan, Malaysia-Singapore-Polloc-Maguindanao trading route for products like grains. The National Food Authority (NFA) equally granted a Grains Business License to KCTMPC, allowing it to engage in the retailing, wholesaling, warehousing, and importing of rice.¹⁷ Considering the foregoing reasons, Dela Cuesta found no sufficient ground to engender a well-founded belief that the 73 container vans containing the subject goods are liable for forfeiture and, as such, ordered them to be released.¹⁸

As Dela Cuesta's ruling was adverse to the government, then BoC Commissioner, Antonio M. Bernardo, forwarded the case for automatic review to petitioner Secretary of the Department of Finance (petitioner).¹⁹ In the 4th Indorsement²⁰ dated November 21, 2003 (4th Indorsement) of then Undersecretary of Finance, Maria Gracia M. Pulido-Tan (Pulido-Tan), Dela Cuesta's ruling was reversed and the BoC was ordered to "determine the possible violations or applicable customs rules and regulations, and institute such actions, criminal or otherwise, against the person found to be responsible."²¹

Nonetheless, on January 23, 2004, KCTMPC filed a Motion for Execution,²² contending that the Decision of Dela Cuesta had already become final and executory in accordance with Section 2313²³ of the TCCP,

¹⁵ Id. at 61.

¹⁶ Id. at 63.

¹⁷ Id. at 61 and 64.

¹⁸ Id. at 65-66.

¹⁹ Id. at 67. See 1st Indorsement of Commissioner Antonio M. Bernardo. Pursuant to RA 7651, amending Section 2313 of the TCCP.

²⁰ *Rollo*, pp. 73-76.

²¹ Id. at 76.

²² Id. at 78-81.

²³ Sec. 2313. *Review by Commissioner.* - The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen (15) days after notification in writing by the Collector of his action or decision, file a written notice to the Collector with a copy furnished to the Commissioner of his intention to appeal the action or decision of the Collector to the Commissioner. Thereupon the Collector shall forthwith transmit all the records of the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision: Provided, That when an appeal is filed beyond the period herein prescribed, the same shall be deemed dismissed.

If in any seizure proceedings, the Collector renders a decision adverse to the Government, such decision shall be automatically reviewed by the Commissioner and the records of the case elevated within five (5) days from the promulgation of the decision of the Collector. The Commissioner shall render a decision of the automatic appeal within thirty (30) days from receipt of the records of the

as amended by RA 7651. Pulido-Tan denied the said motion through a 9th Indorsement²⁴ dated April 1, 2004 (9th Indorsement), instructing the BoC to strictly abide by and comply with the 4th Indorsement. Aggrieved, KCTMPC filed a Petition for Review with Prohibition²⁵ (petition for prohibition) before the CTA, docketed as C.T.A. Case No. 7028.

The Proceedings Before the CTA

In its petition for prohibition, KCTMPC contended that the subject goods are not subject to seizure and forfeiture because the legal requisites for the same are absent and that, pursuant to Section 1202 of the TCCP, the importation of the rice shipment was already terminated upon payment of the duties and taxes due thereon.

Meanwhile, pending resolution of its petition, KCTMPC filed a motion to release²⁶ which petitioner opposed²⁷ on the ground that the importation in question demonstrates badges of smuggling since: (a) KCTMPC had no clear license to undertake the importation of the subject goods; (b) the subject goods were misdeclared as corn grits; (c) there is a strong indication that KCTMPC was just being used as a dummy or conduit for Agro Farm, Las Buenas Farm, and SCC Farm that had also laid claim to the rice shipment; (d) the subject goods were not imported by KCTMPC itself but by persons who do not possess any authority or license therefor; and (e) M/V Nossa Senhora de Fatima curiously deviated from its intended route and attempted to dock at Batangas Port.²⁸ Also, citing the case of *Geotina v. CTA*²⁹ (*Geotina*), petitioner argued that the subject goods should be considered as prohibited under Section 102(k) of the TCCP and, as such, should not be released pending final determination of KCTMPC's petition for prohibition.³⁰

case. If the Collector's decision is reversed by the Commissioner, the decision of the Commissioner shall be final and executory. However, if the Collector's decision is affirmed, or if within thirty (30) days from receipt of the records of the case by the Commissioner no decision is rendered or the decision involves imported articles whose published value is Five million pesos (₱5,000,000) or more, such decision shall be deemed automatically appealed to the Secretary of Finance and the records of the proceedings shall be elevated within five (5) days from the promulgation of the decision of the Commissioner or of the Collector under appeal, as the case may be: Provided, further, That if the decision of the Commissioner or of the Collector under appeal, as the case may be, is affirmed by the Secretary of Finance, or if within thirty (30) days from receipt of the records of the proceedings by the Secretary of Finance, no decision is rendered, the decision of the Secretary of Finance, or of the Commissioner, or of the Collector under appeal, as the case may be, shall become final and executory. In any seizure proceeding, the release of imported articles shall not be allowed unless and until a decision of the Collector has been confirmed in writing by the Commissioner of Customs.

²⁴ *Rollo*, p. 85.

²⁵ *Id.* at 89-108.

²⁶ *Id.* at 146-148.

²⁷ *Id.* at 149-155. See Opposition dated December 8, 2004.

²⁸ *Id.* at 150-151.

²⁹ 148-B Phil. 273 (1971).

³⁰ *Rollo*, pp. 151-153.

On December 21, 2004, the CTA issued a Resolution³¹ which granted KCTMPC's motion to release. Petitioners moved for reconsideration which was, however, denied in a Resolution³² dated April 18, 2005.

The CTA ruled that petitioner's reliance on *Geotina* was misplaced since the importation of the articles therein, *i.e.*, apples, were barred under Central Bank Circular (CB Circular) No. 289 dated February 21, 1970. This is, however, untrue for rice and corn products which are mere "regulated" and not "prohibited" commodities.³³ It further found that the government agency tasked to supervise the importation of the subject goods already confirmed its allowance. In addition, the CTA noted that KCTMPC may, under Section 2301 of the TCCP, secure the release of the subject goods in detention by the filing of a cash bond.³⁴ Dissatisfied with the CTA's ruling, petitioner filed the instant petition for *certiorari*.

Subsequently, or on August 6, 2008, the CTA rendered a Decision (August 6, 2008 Decision) in C.T.A. Case No. 7028, annulling the 9th Indorsement for having been issued beyond the reglementary period allowed by law. As a result, Dela Cuesta's ruling lifting the seizure warrant had become final and executory. Thereafter, or on August 27, 2008, the CTA's August 6, 2008 Decision had also become final and executory.³⁵

The Issue Before the Court

The essential issue in this case is whether or not the CTA committed grave abuse of discretion when it granted KCTMPC's motion to release.

The Court's Ruling

The petition is denied.

At the outset, it bears to stress that the issues raised in the instant petition have already been rendered moot and academic by virtue of petitioner's own manifestation that the CTA had already rendered a decision on the main case,³⁶ of which the matter on the propriety of the CTA's grant of KCTMPC's motion to release is but an incident.

Records disclose that based on the Entry of Judgment³⁷ attached to petitioner's Manifestation, the 9th Indorsement was annulled by the CTA for

³¹ Id. at 156-157.

³² Id. at 44-47.

³³ Id. at 45-46.

³⁴ Id. at 46-47.

³⁵ Id. at 394 and 397.

³⁶ Referring to the August 6, 2008 Decision in C.T.A. Case No. 7028.

³⁷ *Rollo*, p. 397.

having been issued beyond the reglementary period allowed by law. In effect, Dela Cuesta's ruling lifting the seizure of warrant was declared to be final and executory.³⁸ More pertinently, the CTA's August 6, 2008 Decision had also become final and executory last August 27, 2008.³⁹ Therefore, C.T.A. Case No. 7028, including all of the incidents therein, has been laid to rest, altogether barring petitioner to contest the same. Consequently, no practical relief can be granted to petitioner by resolving the instant petition as it only revolves around the CTA's grant of KCTMPC's motion to release, which, as earlier mentioned, is but an incident of the main case. In fine, the petition is deemed as moot.⁴⁰

In any event, the Court finds that the CTA did not gravely abuse its discretion when it granted KCTMPC's motion to release since there lies cogent legal bases to support its conclusion that the subject goods were merely "regulated" and not "prohibited" commodities.

Among others, the CTA correctly observed that the *Geotina* ruling was inapplicable due to the classification of the goods involved therein. As cited by the CTA, CB Circular No. 1389 dated April 13, 1993 classified imports into three (3) categories, namely: (a) "freely importable commodities" or those commodities which are neither "regulated" nor "prohibited" and the importation of which may be effected without any prior approval of or clearance from any government agency; (b) "regulated commodities" or those commodities the importation of which require clearances/permits from appropriate government agencies; and (c) "prohibited commodities" or those commodities the importation of which are not allowed by law.⁴¹ Under Annex 1 of the foregoing circular, rice and corn are enumerated as "regulated" commodities, unlike the goods in the *Geotina* case, which were, at that time, classified as "prohibited" commodities.⁴² Therefore, owing to this divergence, the CTA properly pronounced that the *Geotina* ruling is inapplicable.

³⁸ See Section 2313 of the TCCP; supra note 23.

³⁹ *Rollo*, pp. 394 and 397.

⁴⁰ "A case becomes moot when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits. Courts will not determine a moot question in a case in which no practical relief can be granted. It is unnecessary to indulge in academic discussion of a case presenting a moot question, as a judgment thereon cannot have any practical legal effect or, in the nature of things, cannot be enforced." (*Baldo, Jr. v. Commission on Elections*, G.R. No. 176135, June 16, 2009, 589 SCRA 306, 310-311.)

⁴¹ *Rollo*, pp. 45-46 and 208.


⁴² The pertinent portions of the *Geotina* ruling reads:

The issue reduces itself quite simply and essentially to whether or not the fresh apples in question are "articles of prohibited importation." If so, as the Court holds, then the tax court acted in excess of its jurisdiction in overturning the customs authorities' proper exercise of their jurisdiction under section 1207 of the Customs Code, in preventing importation and refusing to allow the discharge of the shipment of apples, which admittedly is not covered by the required Central Bank permit or release certificate. By the same token, **since the importation of said apples is banned under the cited Central Bank circulars which have the force and effect of law, the tax court acted without authority of law in ordering the commissioner to release the apples to the importer under bond**, for under the very section 2301 of the customs code invoked by it, "articles the importation of which is prohibited by law shall not be released under bond." (*Geotina v. CTA*, supra note 29 at 282-283; emphases supplied.)


It is a standing jurisprudential rule that not every error in the proceedings, or every erroneous conclusion of law or fact, constitutes grave abuse of discretion.⁴³ An act of a court or tribunal can only be considered to be tainted with grave abuse of discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.⁴⁴ In order to be qualified as “grave,” the abuse of discretion must be so patent or gross as to constitute an evasion of a positive duty or a virtual refusal to perform the duty or to act at all in contemplation of law.⁴⁵ Finding that this characterization does not fit the CTA’s exercise of discretion in this case, the Court holds that no grave abuse of discretion attended its grant of KCTMPC’s motion to release.

WHEREFORE, the petition is **DISMISSED**.


SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

⁴³ *Alberto v. Court of Appeals*, G.R. Nos. 182130 and 182132, June 19, 2013, citing *Tavera-Luna, Inc. v. Nable*, 67 Phil. 340, 344 (1939).

⁴⁴ *Yu v. Reyes-Carpio*, G.R. No. 189207, June 15, 2011, 652 SCRA 341, 348. (Citation omitted)

⁴⁵ See *Chua Huat v. Court of Appeals*, 276 Phil. 1, 18 (1991).

ATTESTATION

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

**ANTONIO T. CARPIO**

Associate Justice

Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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