

SECOND DIVISION

[G.R. No. 168137, August 07, 2013]

**SECRETARY OF THE DEPARTMENT OF FINANCE, PETITIONER, VS.
COURT OF TAX APPEALS (SECOND DIVISION) AND KUTANGBATO
CONVENTIONAL TRADING MULTI-PURPOSE COOPERATIVE,^[1]
RESPONDENTS.**

R E S O L U T I O N

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*^[2] are the Resolutions dated December 21, 2004^[3] and April 18, 2005^[4] 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 Bond^[5] (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 imported rice (subject goods) were seized and detained for alleged violation of Section 2530^[6] 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 Decision^[13] 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 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 Indorsement^[20] 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 2313^[23] of the TCCP, as amended by RA 7651. Pulido-Tan denied the said motion through a 9th Indorsement^[24] 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 Prohibition^[25] (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 release^[26] which petitioner opposed^[27] 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]

On December 21, 2004, the CTA issued a Resolution^[31] which granted KCTMPC's motion to release. Petitioners moved for reconsideration which was, however, denied in a Resolution^[32] 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 Judgment^[37] attached to petitioner's

Manifestation, the 9th Indorsement was annulled by the CTA for 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.

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.

Carpio (Chairperson), Brion, Del Castillo, and Perez, JJ., concur.

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