

THIRD DIVISION

[G.R. No. 179516, March 17, 2009]

**HON. EXECUTIVE SECRETARY, COMMISSIONER OF CUSTOMS,
AND THE DISTRICT COLLECTOR OF CUSTOMS OF THE PORT OF
SUBIC, PETITIONERS, VS. NORTHEAST FREIGHT FORWARDERS,
INC., RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review under Rule 45 of the Rules of Court assailing the Decision^[1] dated 6 February 2007 and Resolution^[2] dated 4 September 2007 of the Court of Appeals in CA-G.R. SP No. 94646. The Court of Appeals, in its assailed Decision, affirmed the Order dated 22 March 2006^[3] of the Regional Trial Court (RTC), Branch 74, Olongapo City, allowing the intervention of respondent Northeast Freight Forwarders, Inc. in Civil Case No. 179-0-05; and in its assailed Resolution, denied the Motion for Reconsideration of petitioners Executive Secretary, Commissioner of Customs, and District Collector of Customs of the Port of Subic.

The antecedent facts of the case are as follows:

On 4 April 2005, President Gloria Macapagal-Arroyo issued Executive Order No. 418, entitled, "Modifying the Tariff Nomenclature and Rates of Import Duty on Used Motor Vehicles under Section 104^[4] of the Tariff and Customs Code of 1978 (Presidential Decree No. 1464, as amended)." Executive Order No. 418 imposed additional specific duty in the amount of P500,000.00 for used motor vehicles imported into the country. Relevant provisions of Executive Order No. 418 are hereunder reproduced:

SECTION 1. The articles specifically listed in Annex "A" hereof, as classified under Section 104 of the Tariff and Customs Code of 1978, as amended, shall be subject to the rates of import duty indicated opposite each articles except for trucks, buses and special purpose vehicles.

SEC. 2. In addition to the regular rates of import duty, the articles specifically listed in Annex "A" hereof, as classified under Section 104 of the Tariff and Customs Code of 1978, as amended, shall be subject to additional specific duty of P500,000.00.

Following the effectivity of Executive Order No. 418, seven enterprises at the Subic Bay Freeport Zone (formerly Subic Naval Base area), namely: Unitrans Subic Ventures Corp., Akram Subic Bay Trading Corp., Chifil Subic International Trading, Lucky Dale Subic International, Inc., Phil-Pan Subic Ventures, Inc., Sunlift Subic International Corporation, and JJB Century International Ventures Corp. (collectively

referred to as the Subic enterprises), filed before the RTC of Olongapo City a Petition for declaratory relief^[5] challenging the constitutionality and legality of Executive Order No. 418 on the ground that it violates their property rights and impairs the obligation of contracts. The Petition, docketed as Civil Case No. 179-0-05, was raffled to Branch 74 of the RTC, Olongapo City.

On 12 August 2005, RTC Judge Ramon S. Caguioa issued an Order granting the application of the Subic enterprises for the issuance of a writ of preliminary injunction enjoining the implementation of Executive Order No. 418.^[6]

To avail itself of the effects and benefits of the writ of preliminary injunction issued pursuant to the RTC Order dated 12 August 2005, respondent filed its Motion for Leave to Intervene and Admit Petition in Intervention in Civil Case No. 179-0-05.^[7] Respondent claimed in its Motion that it would also be adversely affected by the implementation of Executive Order No. 418 since it is engaged in the importation or trade of all types of motor vehicles inside the Subic Bay Freeport Zone.

In its Opposition^[8] to the Motion for Leave to Intervene, petitioners argued that respondent does not have any interest to assail Executive Order No. 418 because the latter's Certificate of Registration and Tax Exemption would disclose that it was prohibited from importing or trading used motor vehicles.

In an Order dated 22 March 2006, the RTC allowed the intervention of respondent in Civil Case No. 179-0-05 and admitted its Petition in Intervention, based on the following reasoning:

Section 1, Rule 19 of the 1997 Rules of Civil Procedure outlines the qualifications of persons who may intervene. The would-be intervenor must show that it has a legal interest on the matter in litigation or in the success of either of the parties or an interest against both as it would be adversely affected by a distribution or disposition of the property in custody of the court or an officer thereof.

After a careful evaluation of the allegations in the petition in intervention and the various documentary evidence presented, marked and offered (Exhibits "A to G," inclusive of all sub-markings) in support of its motion with attached petition in intervention, the Court finds and so holds that the [herein respondent] was able to show to the satisfaction of the Court that it has sufficient legal interest on the matter in litigation because it is in the business of importing motor vehicles inside the Subic Bay Freeport Zone as evidenced by its Certificate of Registration (Exhibit "A") and the accreditations issued by the Land Transportation Office as importer (Exhibit "B") and dealer (Exhibit "C"). As such, [respondent] stands to be substantially and adversely affected by the implementation of Executive Order No. 418 considering that the principal activity of the company was the importation of used motor vehicles that comprised 98% of its income (Exhibits "G, G-1 and G-2"). Furthermore, the intervention of the [respondent] will not unduly delay or prejudice the rights of the original parties and although its rights may be protected in a separate proceedings, it is better and more prudent to just include the [respondent] in the instant action if only to avoid multiplicity of suits.

Finally, the Court takes judicial notice of the decision of the Supreme Court as reported in the different newspapers of February 23, 2006 where the High Court ruled that the ban under Executive Order 156 applies only to the customs territory outside the presently secured fenced-in former Subic Naval Base area known as Subic Bay Freeport Zone. Hence, the exclusion found in Article 1 of the Certificate of Registration of the would-be-intervenor that states "excluding used motor vehicles in EO 156," finds no more application for having been rendered moot and academic.

The RTC thus decreed:

WHEREFORE, foregoing considered, the subject motion is hereby GRANTED and the attached Petition in Intervention is admitted. The [herein respondent] Northeast Freight Forwarders Inc. is now considered a party-petitioner and [herein petitioners] are given fifteen (15) days from receipt hereof to file their Answer to the Petition in Intervention.^[9]

Petitioners filed with the Court of Appeals a Petition for *Certiorari*, docketed as CA-G.R. SP No. 94646, averring that the RTC committed grave abuse of discretion in issuing its 22 March 2006 Order. In its Decision dated 6 February 2007, the Court of Appeals held:

The established rule is that the constitutionality of law can be challenged by one who will sustain a direct injury as a result of its enforcement. We find that said rule is established in so far as [herein respondent] is concerned. Executive Order No. 418 as noted above expressly imposes additional specific duty in the amount of P500,000.00 for each used motor vehicle imported into the country. A careful perusal of the certificate of registration and tax exemption, specifically Article 1 thereof, of [respondent], Northeast Freight Forwarders, Inc., would show that [respondent], Northeast Freight Forwarders, Inc., is authorized to import or export all types of motor vehicles, excluding used motor vehicle in accordance with E.O. No. 156. Thus, we find that herein private respondent is authorized to import or trade used motor vehicle, but not those used motor vehicle in accordance with E.O. No. 156. What E.O. No. 156 prohibits is the importation of used motor vehicles into the Philippine territory outside the secured fenced-in former Subic Naval Base area. Used motor vehicles that come into the Philippine territory via the secured fenced-in former Subic Naval Base area may be stored, used or traded therein, or exported out of the Philippine territory. Thus, used motor vehicles imported and/or traded by [respondent] *via* the secured fenced-in former Subic Naval Base area would therefore be subjected to the additional specific duty in the amount of P500,000.00 imposed by E.O. No. 418. Undoubtedly, [respondent] has the legal interest to assail the validity of E.O. No. 418 because [respondent] would definitely suffer a direct injury from the implementation of E.O. No. 418. The intervention, therefore, of [respondent] in Civil Case No. 179-0-05 is proper.

Based on the foregoing consideration, therefore, the Court finds no grave abuse of discretion attending the RTC's ruling, the same being supported by the attendant circumstances and applicable law.

The *fallo* of the Decision of the appellate court reads:

WHEREFORE, premises considered, the instant petition for certiorari is hereby DISMISSED for lack of merit.^[10]

The Motion for Reconsideration^[11] of petitioners was denied^[12] by the Court of Appeals in its Resolution dated 4 September 2007.

Hence, the instant Petition assigning the following lone error:

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE ORDER OF THE LOWER COURT BECAUSE RESPONDENT HAS NO LEGAL INTEREST IN THE MATTER IN LITIGATION.^[13]

Section 1, Rule 19 of the 1997 Rules of Civil Procedure, as amended, provides for the parameters in which a person, not originally a party to the case, may intervene:

SECTION 1. *Who may intervene.* -- A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

Intervention is not a matter of absolute right but may be permitted by the court when the applicant shows facts which satisfy the requirements of the statute authorizing intervention. Under our Rules of Court, what qualifies a person to intervene is his possession of a legal interest in the matter in litigation or in the success of either of the parties, or an interest against both; or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or an officer thereof. As regards the legal interest as qualifying factor, this Court has ruled that such interest must be of a direct and immediate character so that the intervenor will either gain or lose by the direct legal operation of the judgment. The interest must be actual and material, a concern which is more than mere curiosity, or academic or sentimental desire; it must not be indirect and contingent, indirect and remote, conjectural, consequential or collateral. However, notwithstanding the presence of a legal interest, permission to intervene is subject to the sound discretion of the court, the exercise of which is limited by considering "whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding."^[14]

To allow intervention, (a) it must be shown that the movant has legal interest in the matter in litigation, or is otherwise qualified; and (b) consideration must be given as to whether the adjudication of the rights of the original parties may be delayed or prejudiced, or whether the intervenor's rights may be protected in a separate proceeding or not. Both requirements must concur, as the first is not more important than the second.^[15]

The allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court. The permissive term of the rules shows the intention to give to the court the full measure of discretion in permitting or disallowing intervention.
[16]

Guided by the foregoing rules and jurisprudence, this Court agrees in the finding of the Court of Appeals that the RTC did not commit grave abuse of discretion in granting the Motion for Leave to Intervene and Admit the Petition in Intervention of respondent.^[17]

According to Certificate of Registration No. 2002-0030 dated 12 December 2002^[18] issued by Subic Bay Metropolitan Authority, respondent was authorized to engage in the following business:

ARTICLE 1. The Company shall be classified as a Subic Bay Freeport Enterprise, as such term is defined under Section 3, Paragraph G of the Implementing Rules, for the purpose of engaging in the business of international freight and cargo forwarding, break bulk agents, customs brokerage, warehousing, storing, import/export, packaging, crating of merchandise, goods, wares and commodities in SBF; **transshipment, assembling, trading, distributing, marketing at wholesale insofar as maybe permitted by law**, goods and general merchandise of every kind and description including but not limited to, food products or commodities, **all types of motor vehicles (excluding used motor vehicle in accordance [with] E.O. 156)** including but not limited to trucks, buses, light/heavy industrial/agricultural/construction machineries and equipment, parts and accessories, brand new motorcycles, accessories and parts, generators, and the like, bicycles and parts, watercrafts and equipment, electronics/computer/telecommunications products, parts and accessories, textiles and other liberalized products as related thereto from Building No. 8474, Argonaut Highway, Subic Gate, Subic Bay Freeport Zone. (Emphases supplied.)

Petitioners base their argument on the fact that respondent has no legal interest to intervene in Civil Case No. 179-0-05, as the latter's Certificate of Registration states that respondent is allowed to transship, assemble, trade, distribute, and market by wholesale "all types of motor vehicles (excluding used motor vehicles in accordance with Executive Order No. 156)." By virtue of this phrase, petitioners assert that respondent is prohibited from importing and trading used motor vehicles. And since Executive Order No. 418, being challenged in Civil Case No. 179-0-05, imposes additional specific duty on imported used motor vehicles, which respondent is not permitted to import or trade, then respondent had no legal interest to intervene in said case.

The interpretation by petitioners of the Certificate of Registration of respondent is myopic. Petitioners completely ignore the fact that the phrase "excluding used motor vehicles" is qualified by the words "in accordance with Executive Order No. 156." Hence, the extent of the prohibition on trading used motor vehicles imposed upon respondent could only be determined in relation to Executive Order No. 156.

Executive Order No. 156, entitled, "Providing for a Comprehensive Industrial Policy and Directions for the Motor Vehicle Development Program and Its Implementing