

THIRD DIVISION

[G.R. No. 177188, December 04, 2008]

**EL GRECO SHIP MANNING AND MANAGEMENT CORPORATION,
PETITIONER, VS. COMMISSIONER OF CUSTOMS, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, filed by petitioner El Greco Ship Manning and Management Corporation (El Greco), seeking to reverse and set aside the Decision^[1] of the Court of Tax Appeals (CTA) *En Banc* dated 14 March 2007 in C.T.A. EB No. 162. In its assailed Decision, the CTA *En Banc* affirmed the Decision^[2] dated 17 October 2005 of the CTA Second Division in CTA Case No. 6618, ordering the forfeiture of the vessel M/V Criston, also known as M/V Neptune Breeze, for having been involved in the smuggling of 35,000 bags of imported rice.

The factual and procedural antecedents of this case are as follows:

On 23 September 2001, the vessel M/V Criston docked at the Port of Tabaco, Albay, carrying a shipment of 35,000 bags of imported rice, consigned to Antonio Chua, Jr. (Chua) and Carlos Carillo (Carillo), payable upon its delivery to Albay. Glucer Shipping Company, Inc. (Glucer Shipping) is the operator of M/V Criston.^[3]

Upon the directive of then Commissioner Titus Villanueva of the Bureau of Customs (BOC), a Warrant of Seizure and Detention, **Seizure Identification No. 06-2001**, was issued by the Legaspi District Collector, on 23 September 2001 for the 35,000 bags of imported rice shipped by M/V Criston, on the ground that it left the Port of Manila without the necessary clearance from the Philippine Coast Guard. Since the earlier Warrant covered only the cargo, but not M/V Criston which transported it, a subsequent Warrant of Seizure and Detention, **Seizure Identification No. 06-2001-A**, was issued on 18 October 2001 particularly for the said vessel. The BOC District Collector of the Port of Legaspi thereafter commenced proceedings for the forfeiture of M/V Criston and its cargo under Seizure Identification No. 06-2001-A and Seizure Identification No. 06-2001, respectively.^[4]

To protect their property rights over the cargo, consignees Chua and Carillo filed before the Regional Trial Court (RTC) of Tabaco, Albay, a Petition for Prohibition with Prayer for the Issuance of Preliminary Injunction and Temporary Restraining Order (TRO) assailing the authority of the Legaspi District Collectors to issue the Warrants of Seizure and Detention and praying for a permanent injunction against the implementation of the said Warrants. Their Petition was docketed as Civil Case No. T-2170.^[5]

After finding the Petition sufficient in form and substance and considering the extreme urgency of the matter involved, the RTC issued a 72-hour TRO conditioned upon the filing by Chua and Carillo of a bond in the amount of P31,450,000.00, representing the value of the goods. After Chua and Carillo posted the required bond, the 35,000 bags of rice were released to them.^[6]

The Legaspi District Collector held in abeyance the proceedings for the forfeiture of M/V Criston and its cargo under Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A pending the resolution by the RTC of Civil Case No. T-2170. When the RTC granted the Motion to Dismiss Civil Case No. T-2170 filed by the BOC, the Legaspi District Collector set the hearing of Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A. A notice of the scheduled hearing of the aforementioned seizure cases was sent to Glucer Shipping but it failed to appear at the hearing so set. After a second notice of hearing was ignored by Glucer Shipping, the prosecutor was allowed to present his witnesses.^[7]

In the meantime, while M/V Criston was berthing at the Port of Tabaco under the custody of the BOC, the Province of Albay was hit by typhoon "Manang." In order to avert any damage which could be caused by the typhoon, the vessel was allowed to proceed to another anchorage area to temporarily seek shelter. After typhoon "Manang" had passed through Albay province, M/V Criston, however, failed to return to the Port of Tabaco and was nowhere to be found.^[8]

Alarmed, the BOC and the Philippine Coast Guard coordinated with the Philippine Air Force to find the missing vessel. On 8 November 2001, the BOC received information that M/V Criston was found in the waters of Bataan sporting the name of M/V Neptune Breeze.^[9]

Based on the above information and for failure of M/V Neptune Breeze to present a clearance from its last port of call, a Warrant of Seizure and Detention under **Seizure Identification No. 2001-208** was issued against the vessel by the BOC District Collector of the Port of Manila.^[10]

For the same reasons, the Legaspi District Collector rendered a Decision on 27 June 2002 in Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A ordering the forfeiture of the M/V Criston, also known as M/V Neptune Breeze, and its cargo, for violating Section 2530 (a), (f) and (k) of the Tariff and Customs Code.^[11]

In the meantime, El Greco, the duly authorized local agent of the registered owner of M/V Neptune Breeze, Atlantic Pacific Corporation, Inc. (Atlantic Pacific), filed with the Manila District Collector, in Seizure Identification No. 2001-208, a Motion for Intervention and Motion to Quash Warrant of Seizure Detention with Urgent Prayer for the Immediate Release of M/V Neptune Breeze. El Greco claimed that M/V Neptune Breeze was a foreign registered vessel owned by Atlantic Pacific, and different from M/V Criston which had been involved in smuggling activities in Legaspi, Albay.^[12]

Acting favorably on the motion of El Greco, the Manila District Collector issued an Order^[13] dated 11 March 2002 quashing the Warrant of Seizure and Detention it

issued against M/V Neptune Breeze in Seizure Identification No. 2001-208 for lack of probable cause that the said vessel was the same one known as M/V Criston which fled from the jurisdiction of the BOC Legaspi District after being seized and detained therein for allegedly engaging in smuggling activities. According to the decretal part of the Manila District Collector's Order:

WHEREFORE, pursuant to the authority vested in me by law, it is hereby ordered and decreed that the Warrant of Seizure and Detention issued thereof be Quashed for want of factual or legal basis, and that the vessel "M/V Neptune Brreze" be released to [El Greco] after clearance with the Commissioner of Customs, proper identification and compliance with existing rules and regulations pertinent in the premises.

On automatic review by BOC Commissioner Antonio Bernardo, the Order dated 11 March 2002 of the District Collector of the Port of Manila was reversed after finding that M/V Neptune Breeze and M/V Criston were one and the same and that the Legaspi District Collector had already acquired prior jurisdiction over the vessel. The Decision dated 15 January 2003 of the BOC Commissioner, contained in his 2nd Indorsement^[14] to the Manila District Collector, decreed:

Respectfully returned to the District Collector, POM, the within case folders in POM S. I. No. 2001-208, EL GRECO SHIP MANNING AND MANAGEMENT CORPORATION, Claimant/Intervenor, with the information that the Decision of that Port in the aforesaid case is hereby REVERSED in view of the following reasons:

1. Subject vessel MV "NEPTUNE BREEZE" and MV "CRISTON" are one and the same as shown by the vessels documents retrieved by the elements of the Philippine Coast Guard from MV "CRISTON" during the search conducted on board thereof when the same was apprehended in Tabaco, Albay, indicating therein the name of the vessel MV "NEPTUNE BREEZE," the name of the master of the vessel a certain YUSHAWU AWUDU, etc. These facts were corroborated by the footage of ABS-CBN taken on board the vessel when the same was subjected to search.
2. Hence, prior jurisdiction over the said vessel was already acquired by the Port of Legaspi when the said Port issued WSD S.I. No. 06-2001-A and therefore, the Decision of the latter Port forfeiting the subject vessel supercedes the Decision of that Port ordering its release.

Seeking the reversal of the Decision dated 15 January 2003 of the BOC Commissioner, El Greco filed a Petition for Review with the CTA which was lodged before its Second Division as CTA Case No. 6618. El Greco averred that the BOC Commissioner committed grave abuse of discretion in ordering the forfeiture of the M/V Neptune Breeze in the absence of proof that M/V Neptune Breeze and M/V Criston were one and the same vessel.^[15] According to El Greco, it was highly improbable that M/V Criston was merely assuming the identity of M/V Neptune Breeze in order to evade liability since these were distinct and separate vessels as evidenced by their Certificates of Registry. While M/V Neptune Breeze was registered in St. Vincent and the Grenadines^[16] as shown in its Certificate of Registry No.

7298/N, M/V Criston was registered in the Philippines. Additionally, El Greco argued that the Order dated 11 March 2002 of the Manila District Collector already became final and executory for failure of the BOC Commissioner to act thereon within a period of 30 days in accordance with Section 2313 of the Tariff and Customs Code.

On 17 October 2005, the CTA Second Division rendered a Decision^[17] in CTA Case No. 6618 sustaining the 15 January 2003 Decision of the BOC Commissioner ordering the forfeiture of M/V Neptune Breeze. Referring to the crime laboratory report submitted by the Philippine National Police (PNP) stating that the serial numbers of the engines and the generators of both M/V Criston and M/V Neptune Breeze were identical, the CTA Second Division concluded that both vessels were indeed one and the same vessel. The CTA Second Division further ruled that nothing in the provisions of Section 2313 of the Tariff and Customs Code could buttress El Greco's contention that the Order dated 11 March 2002 of the Manila District Collector already became final and executory. The dispositive portion of the Decision of the CTA Second Division reads:

WHEREFORE, premises considered, the present Petition for Review is hereby **DISMISSED**. The Decision in the 2nd Indorsement dated January 15, 2003 of then Commissioner Bernardo is hereby **AFFIRMED**.

^[18]

In a Resolution^[19] dated 7 February 2006, the CTA Second Division denied the Motion for Reconsideration of El Greco for failure to present issues that had not been previously threshed out in its earlier Decision.

Undaunted, El Greco elevated its case to the CTA *En Banc* through a Petition for Review, docketed as C.T.A. EB No. 162, this time lamenting that it was being deprived of its property without due process of law. El Greco asserted that the CTA Second Division violated its constitutional right to due process when it upheld the forfeiture of M/V Neptune Breeze on the basis of the evidence presented before the Legaspi District Collector in Seizure Identification No. 06-2001 and Seizure Identification No. 06-2001-A, of which El Greco was not notified and in which it was not able to participate.^[20]

In its Decision^[21] promulgated on 14 March 2007, the CTA *En Banc* declared that the CTA Second Division did not commit any error in its disquisition, and dismissed the Petition of El Greco in C.T.A. EB No. 162 for lack of merit. According to the CTA *En Banc*, the appreciation and calibration of evidence on appeal (from the ruling of the BOC) lies within the sound discretion of its Division, and the latter's findings and conclusions cannot be set aside unless it has been sufficiently shown that they are not supported by evidence on record. The CTA *En Banc* thus disposed:

WHEREFORE, the instant petition is hereby DISMISSED. Accordingly, the assailed Decision promulgated on October 17, 2005 and Resolution dated February 7, 2006 of the Second Division of this Court, are hereby AFFIRMED.^[22]

Without filing a Motion for Reconsideration with the CTA, El Greco already sought recourse before this Court *via* this Petition for Review on *Certiorari*, raising the following issues:

I.

WHETHER OR NOT EL GRECO WAS DENIED OF ITS RIGHT TO DUE PROCESS.

II.

WHETHER OR NOT M/V NEPTUNE BREEZE AND M/V CRISTON ARE ONE AND THE SAME VESSEL.

III.

WHETHER OR NOT M/V NEPTUNE BREEZE IS QUALIFIED TO BE THE SUBJECT OF FORFEITURE UNDER SECTION 2531 OF THE TARIFF AND CUSTOMS CODE.

The primordial issue to be determined by this Court is whether M/V Neptune Breeze is one and the same as M/V Criston which had been detained at the Port of Tabaco, Albay, for carrying smuggled imported rice and had fled the custody of the customs authorities to evade its liabilities.

El Greco insists that M/V Neptune Breeze and M/V Criston are not the same vessel. In support of its position, El Greco again presents the foreign registration of its vessel as opposed to the local registration of M/V Criston.

The CTA *En Banc*, however, affirming the findings of the CTA Second Division, as well as the Legaspi District Collector, concluded otherwise.

We sustain the determination of the CTA *En Banc* on this matter.

Well-entrenched is the rule that findings of facts of the CTA are binding on this Court and can only be disturbed on appeal if not supported by substantial evidence.^[23] Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.^[24]

A review of the records of the present case unveils the overwhelming and utterly significant pieces of evidence that more than meets the quantum of evidence necessary to establish that M/V Neptune Breeze is the very same vessel as M/V Criston, which left the anchorage area at Legaspi, Albay, without the consent of the customs authorities therein while under detention for smuggling 35,000 bags of imported rice.

The crime laboratory report of the PNP shows that the serial numbers of the engines and generators of the two vessels are identical. El Greco failed to rebut this piece of evidence that decisively identified M/V Neptune Breeze as the same as M/V Criston. We take judicial notice that along with gross tonnage, net tonnage, length and breadth of the vessel, the serial numbers of its engine and generator are the necessary information identifying a vessel. In much the same way, the identity of a land motor vehicle is established by its unique motor and chassis numbers. It is, thus, highly improbable that two totally different vessels would have engines and generators bearing the very same serial numbers; and the only logical conclusion is that they must be one and the same vessel.