

SECOND DIVISION

[G.R. No. 110604, October 10, 2003]

BUENAVENTURA S. TENORIO, ACTING CHIEF, LAW DIVISION, MARIANO ABANILLA, CHIEF, PROSECUTION & INVESTIGATION DIVISION, ROMEO SARTE, SPECIAL COUNSEL, ALL OF THE BUREAU OF CUSTOMS, P/LT. CHRISTOPHER TAMBUNGAN, CHIEF, INVESTIGATION BRANCH RPIU-CAPCOM, P/LT. GILBERT CRUZ, PNP-RPIU-CAPCOM, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, HON. SANTIAGO G. ESTRELLA, PRESIDING JUDGE, BR. 68 OF THE REGIONAL TRIAL COURT OF PASIG, METRO MANILA, HON. MANUEL L. VILLAMAYOR, PRESIDING JUDGE, BR. 57 OF THE REGIONAL TRIAL COURT OF SAN JUAN, METRO MANILA, AND ANTONIO COSENG, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

Before the Court is a petition for review on *certiorari* of the June 9, 1993 Decision^[1] of the Court of Appeals in CA-G.R.CR No. 14090, affirming on appeal, the January 22, 1993 Resolution^[2] of the Regional Trial Court of Pasig, Metro Manila (now Pasig City), Branch 68, which affirmed with modification the April 7, 1992 Resolution^[3] of the Metropolitan Trial Court of San Juan, Metro Manila, Branch 57, citing the petitioners for indirect contempt in *People of the Philippines v. Antonio Coseng*, Search Warrant No. 18-91 for violation of the Tariff and Customs Code.

This case stemmed from the following factual backdrop:

On August 12, 1991, P/Lt. Christopher L. Tambungan of the RPIU CAPCOM, Philippine National Police (PNP) applied with the Metropolitan Trial Court (MeTC) of San Juan, Metro Manila, Branch 57, for the issuance of a warrant to search the dwelling of private respondent Antonio Coseng. The private respondent was suspected of having in his possession or control untaxed and smuggled goods, said to be at No. 267 or 106, P. Guevarra St., San Juan, Metro Manila. The application was docketed as *People v. Antonio Coseng*, Search Warrant No. 18-91. Therein, it was prayed that a search warrant issue to enable any agent of the law to take possession of and bring to the Court the following articles:

1. Assorted 20 pcs. Hand-held radio (ICOM);
2. 30 pcs. of TV sets (Sanyo and Sony);
3. 40 pcs. stereo cassettes;
4. assorted betamax TV;
5. assorted radio components;
6. calculators; and
7. radio boosters.^[4]

The court granted the application and issued Search Warrant No. 18-91 on August 12, 1991 with specific orders to the police officers to search No. 267 or 106 P. Guevarra St., San Juan, Metro Manila, for the articles therein described and to bring the same to the court to be dealt with as the law requires:

ASSORTED 20 PIECES HAND-HELD RADIO (ICOM), 30 PIECES OF TV SETS (SANYO and SONY), 40 PIECES STEREO CASSETTES, ASSROTED (SIC) BETAMAX TV, ASSORTED RADIO COMPONENTS, CALCULATORS, AND RADIO BOOSTERS.^[5]

The court authorized Tambungan to serve the warrant day and night and directed that the search be made in the presence of witnesses or barangay officials.^[6]

At about 3:30 p.m. of the same day, Tambungan and some police officers served the search warrant on a certain Johnny Corpuz who was in the house to be searched. However, he refused to receive the warrant. Nevertheless, the police officers conducted a search in the presence of the barangay officials and counsel for the private respondent Atty. Pedro Aguilar. The private respondent was reportedly outside the country at that time.^[7] The search team seized assorted articles, not only those described in the search warrant but also other goods, enumerated and described as follows:

1. 372 pcs. Clarion Radio, packed in 21 boxes
2. 90 pcs. Tech WEM 17 microphones
3. 6 pcs. Maclin Songmate
4. 4 pcs. VM 200 HL Audio & Video Monitors
5. 104 pcs. Sony RM 50; 9 pcs. Wesstone; 38 pcs. Microphone 230 Sony RM 50; 34 pcs. VCR Stabilizer, 4 pcs. Western Playback
6. 2 pcs. ICOM Handheld Radios.^[8]

Instead of bringing the seized goods to the court, Tambungan called Senior Inspector Alex Bautista of the Bureau of Customs (BOC) on August 14, 1991, and reported the seizure of the goods. Without authority from the court, Tambungan later turned over the seized goods to P/Lt. Gilbert Cruz of the CAPCOM. He later turned over the goods to Bautista who issued a receipt therefor:

1. 40 pcs. Sony RM 50;
2. 37 pcs. Mini-phone HD11-4;
3. 34 pcs. VCR Image Stabilizer VP-5010;
4. 34 pcs. Fuji Den Automatic Car Antenna;
5. 90 pcs. TECT Wireless Microphone Model WEM-17;
6. 21 boxes car radio AM;
7. 5 pcs. Bigstar Deluxe Car Stereo Speaker;
8. 13 pcs. Sanyo Model MW - 323K;
9. 7 pcs. Maclin Karaoke;
10. 11 pcs. Weston T-2510 FM/AM StereoTuner/Amplifier;
11. 4 pcs. Weston Playback Stereo Deck PD-113;
12. 27 Boxes Sony Radio Cassettes;
13. 4 pcs. audio/TV system;
14. 2 pcs. ICOM handheld;
15. 1 pc. Opto-Electronics Inc.^[9]

Bautista in turn turned over the goods to the Legal and Investigation Staff Enforcement and Security Service of the BOC, which then stored the goods at the Bureau's Warehouse No. 6.

In the meantime, Tambungan filed his return on the writ, including an *ex-parte* motion praying for a *post facto* authority for Senior Inspector Alex Bautista to retain custody of the seized evidence, preparatory to the filing of a criminal complaint for violation of Section 102 (Smuggling) of the Tariff and Customs Code against private respondent Antonio Coseng.^[10] However, no such criminal complaint for violation of the TCC was filed against the private respondent.

On September 2, 1991, the court issued an order denying Tambungan's motion and directing him to turn over all the seized articles to the trial court within ten days from notice of the said order. The next day, the private respondent filed a motion with the MeTC for the release of the seized articles, alleging that except for 13 pieces of Sanyo appliances, 27 pieces of long radio cassettes, and 2 pieces of ICOM, the search team also seized articles from his house which were not included in Search Warrant No. 18-91.^[11] In his Answer to the Order dated September 16, 1991, Tambungan alleged that:

3. *Above-mentioned seized items were turned-over to the Bureau of Custom for the following grounds:*

a. *This office has no secured and air-conditioned stock room for the seized properties.*

b. *Further investigation and proper disposition of the case has been consolidated with the legal and investigation service of the Bureau of Custom who has jurisdiction on the implementation of the Custom and Tariff Code of the Philippines particularly smuggling offenses.*

4. *That I am aware that all evidences seized should be turned-over to the competent authority or Bureau of Custom within a reasonable time.* ^[12]

In the meantime, seizure proceedings were instituted at the BOC, docketed as Seizure Identification Case No. 91-379.^[13] On October 3, 1991, Acting District Customs Collector Buenaventura C. Maniego issued a warrant of seizure and detention of the goods owned by Tambungan for violation of Section 2530 of the TCC.

Acting on the motion of the private respondent, the trial court issued an Order on October 4, 1991 directing Tambungan and the Bureau of Customs to turn over all the seized articles to the court within fifteen days.^[14] The hearing in SI No. 91-379 was reset to October 25, 1991.

In the meantime, on October 21, 1991, during the hearing of Coseng's motion for the return of the seized articles not included in the search warrant issued by the trial court, it was manifested that P/Lt. Gilbert Cruz turned over the said articles to the Chief Enforcement and Security Service of the BOC, through Senior Inspector Alex Baustista, who recommended that the goods be placed in their custody. It was, likewise, manifested that a warrant of seizure and detention over the goods had

been issued by Acting District Collector of Customs Buenaventura Maniego. The trial court forthwith ordered Alex Bautista, Buenaventura Maniego and Gilbert Cruz to appear before the court on November 6, 1991 at 9:00 a.m. to explain why they should not be declared in contempt for their failure to deliver the seized articles to the court.^[15] In its order, the court stated that the seizure of the goods was made on the strength of the search warrant issued by it; hence, the goods must be turned over to the court. The BOC had no authority to take custody of the seized goods until the court so ordered therefor.

During the November 6, 1991 hearing, the trial court learned that the following articles were seized by the CAPCOM officers and turned over to the BOC but were not included in the inventory submitted to the court:

- m) 4 pcs. Audio/TV System
- n) 2 pcs. ICOM hand-held radio and
- o) 1 pc. Opto-Electronics Inc.^[16]

Consequently, Maniego and Bautista, represented by Atty. Godofredo Bernardino, were ordered to account for the said articles within ten days from receipt of the order of the court.^[17] Similarly, the trial court ordered the BOC to surrender the seized items to the court, including the additional missing items.^[18] The court warned that failure to comply with the order would amount to indirect contempt of court.

Maniego and Bautista failed to comply with the said order and failed to appear during the hearing on December 2, 1991. On the said date, the court issued an order requiring Maniego, Bautista and their counsel to explain within five days why they should not be declared in contempt of court for such failure to comply with the order.^[19] The hearing for contempt was reset to December 17, 1991. Maniego, Bautista and Bernardino once more failed to comply with the order of the court. The hearing was again reset to January 30, 1992. On the said date, the court issued an order requiring Tambungan and Cruz to explain within five days from notice why they should not be punished for contempt for turning over the custody of the seized goods to the BOC without court authority. Again, Maniego was ordered to turn over the items to the court within five days from notice thereof.^[20] On January 22, 1992, Tenorio furnished the Chief of the Enforcement Security Service of the Bureau of Customs with an undated and unsigned copy of the decision purportedly rendered by District Customs Collector Emma M. Rosqueta in Seizure *Identification* Case No. 91-379, forfeiting all the goods kept by Tambungan in favor of the government to be disposed of in the manner provided for by law.

During the hearing of the contempt incident on February 1, 1992, Maniego, Bautista and their counsel failed to appear. The court issued an order requiring them to explain why they should not be held in contempt for such failure to appear. Attys. Buenaventura S. Tenorio and Emma M. Rosqueta were likewise ordered to explain in writing within five days why, notwithstanding BOC's lack of jurisdiction, the confiscation of the seized items was ordered.^[21] On February 18, 1992, Tambungan and Cruz filed their Joint Manifestation that:

. . . [T]he reason why we have turned over because basically during the search there was coordination with the Bureau of Custom agents and the

laws which we believed that being violated by the accused lies upon the Tariff and Custom Code whose jurisdiction confined with the Bureau of Custom to prosecute the same, unless there is a written approval authorizing this unit to prosecute the case hence, we have no alternative, but to turn-over the item subject of this case; furthermore, in our command we have no warehouse wherein which said item should be embarked thereof, thereby exposing said item into damage if we have taken custody of the aforesaid item therefore we have turned over the item seized thereof;

2.) That the turn-over made to the Bureau of Custom does not violate the provision of the Rules of Court and particularly under Sec. 11, Rule 126 since the Bureau of Custom is the agency whom [*sic*] authorized to prosecute the case being the laws which is violated by the accused fall within the Tariff and Custom Code, and that our personality were just witness to the said case hence this written manifestation in compliance to an order dated 30th January 1992.^[22]

On February 28, 1992, the court again ordered the BOC to turn over the goods within 10 days.^[23] Solicitor Herminio R. Miranda, counsel for the BOC, manifested to the court that the seized articles would be turned over to the court within the said period. In the meantime, a warrant of arrest was issued against Cruz for his failure to appear before the court during the hearing.^[24] The private respondent was likewise required to submit documents to prove that the seized goods were not acquired in violation of the law.

During the March 10, 1992 hearing on the contempt charge, Atty. Sarte, special counsel of the BOC, manifested to the court that the BOC would turn over the seized articles to the court. However, Atty. Sarte failed to do so, explaining that the BOC, after assessing the facts and in light of the opinion of Atty. Mariano Abanilla, BOC Chief of the Prosecution Division, decided to retain custody of the goods. Thus, Atty. Sarte and Solicitor Miranda were ordered to submit to the court their respective memoranda on the incidents prior to March 31, 1992. Attys. Tenorio and Rosqueta were ordered to manifest whether they would adopt Solicitor Miranda's memoranda. The court also ordered Attys. Abanilla, Tenorio, Maniego, Rosqueta, Cruz, Tambungan and Bautista to appear before the court on March 31, 1992.^[25] For his part, the private respondent filed a compliance stating that of the goods seized by Tambungan and the other police officers the rest of the goods seized were not covered by the search warrant issued by the court:

3. On the face of the Return of the Writ, it is self-evident that except for nine (9) pieces of SANYO radio cassettes, twenty-seven (27) boxes of SONY radio cassettes and two (2) pieces of ICOM hand-held radios, all of the articles seized were not covered or included in Search Warrant No. 18-91 issued by the Court.

3.1. Of the total twenty-seven (27) boxes of SONY radio cassettes and nine (9) pieces of SANYO radio cassettes seized, twenty-three (23) boxes of the twenty-seven (27) Sony radio cassettes were part of the assorted electronics, together with the nine (9) pieces Sanyo radio cassettes, bought by Mr.