

## SECOND DIVISION

[ G.R. No. 138081, March 30, 2000 ]

**THE BUREAU OF CUSTOMS (BOC) AND THE ECONOMIC  
INTELLIGENCE AND INVESTIGATION BUREAU (EIIB),  
PETITIONERS, VS. NELSON OGARIO AND MARK MONTELIBANO,  
RESPONDENTS. D E C I S I O N**

**MENDOZA, J.:**

The question for decision in this case is whether the Regional Trial Court has jurisdiction to enjoin forfeiture proceedings in the Bureau of Customs. In accordance with what is now settled law, we hold it does not.

The facts are as follows: On December 9, 1998, Felipe A. Bartolome, District Collector of Customs of Cebu, issued a Warrant of Seizure and Detention<sup>[1]</sup> of 25,000 bags of rice, bearing the name of "SNOWMAN, Milled in Palawan" shipped on board the M/V "Alberto," which was then docked at Pier 6 in Cebu City. The warrant was issued on the basis of the report of the Economic Intelligence and Investigation Bureau (EIIB), Region VII that the rice had been illegally imported. The report stated that the rice was landed in Palawan by a foreign vessel and then placed in sacks marked "SNOWMAN, Milled in Palawan." It was then shipped to Cebu City on board the vessel M/V "Alberto." Forfeiture proceedings were started in the customs office in Cebu, docketed as Cebu Seizure Identification Case No. 17-98.

On December 10, 1998, respondent Mark Montelibano, the consignee of the sacks of rice, and his buyer, respondent Elson Ogario, filed a complaint for injunction (Civil Case No. CEB-23077) in the Regional Trial Court of Cebu City, alleging:

4.) That upon arrival of the herein-mentioned sacks of rice at the PIER 5 of Cebu City, Philippines on the 7th day of December 1998 all of the defendants rushed to the port with long arms commanding the plaintiff's laborer[s] to stopped [sic] the unloading of the same from the vessel named M/V Alberto. The defendants alleged that the herein-mentioned rice were [sic] smuggled from abroad without even proof that the same were [sic] purchased from a particular country.

5.) By the mere suspicion of the defendants that the goods were smuggled from abroad, they immediately put on hold the release of the goods from the ship and at the same time they jointly barred unloading and loading activities of the plaintiffs' laborers of the herein-mentioned rice.

6.) The plaintiffs then presented all the pertinent and necessary documents to all of the defendants but the latter refused to believe that the same is from Palawan because their minds are closed due to some

reason or another [while] the plaintiffs believed that the same is merely an act of harassment. The documents are as follows: Jjjä uris

A.) Certification from the National Food Authority that the same is from Palawan. This is hereto attached as Annex A.

B.) Bill of Lading issued by ANMA PHILIPPINES Shipping Company. This is hereto attached as Annex B.

7.) The acts of the defendants in stopping the loading and unloading activities of the plaintiff's laborers [have] no basis in law and in fact; thus, unlawful and illegal. A mere suspicion which is not coupled with any proof or evidence to that effect is [a] matter which the law prohibits.

8.) That for more than three days and despite the repeated plea of the plaintiffs that their goods should be released to them and the defendants should stop from barring the unloading and loading activities, the latter blindly refused [to] heed the same.

9.) That the acts of all of the defendants which are greatly unlawful and erroneous would caused [sic] irreparable damage, injury, and grave injustice to the plaintiffs.

10.) That by way of example or correction for the public good and to deter the defendants from doing the same acts to other businessmen, defendants should be held liable for exemplary damages in the amount of not less than One Hundred Thousand Pesos (P100,000.00).

11.) That the plaintiffs are entitled to the relief prayed in this complaint and the whole or part of such reliefs consist in restraining perpetually the defendants from holding the herein-mentioned twenty-five thousand sacks of rice. That defendants should be restrained perpetually from barring the unloading and loading activities of the plaintiffs' laborers.

12.) That allowing the defendants to continue their unlawful acts would work grave injustice to the plaintiffs. Unless a preliminary injunction be granted ex-parte, grave and irreparable injury and damage would result to the plaintiffs before the latter can be heard on notice.

13.) That if the defendants be not restrained perpetually from their unlawful acts, the herein-mentioned rice will deteriorate and turn into dusts [sic] if not properly disposed.

14.) That a Warrant of Seizure and detention issued by the Collector of Custom[s] dated December 9, 1998 be quashed because the defendants' act of seizing and detaining the herein-mentioned sacks of rice are illegal. The continuing act of detaining the herein-mentioned sacks of rice will lead to the deterioration of the same. That no public auction sale of the same should be conducted by the Bureau of Custom[s] or any government agenc[y].

15.) That plaintiffs are ready and willing to file a bond executed to the

defendants in an amount to be fixed by this Honorable Court to the effect that plaintiffs will pay to the defendants all damages which they may sustain by reason of the injunction if this Honorable Court should finally decide that the plaintiffs are not entitled thereto.

#### PRAYER

WHEREFORE, Premised on the foregoing, it is most respectfully prayed before this Honorable Court that a restraining order or temporary injunction be immediately issued prohibiting the defendants from holding plaintiffs' above-mentioned goods. That it is further prayed that a restraining order or temporary injunction be issued prohibiting the defendants from barring the unloading and loading activities of the plaintiffs' laborers. Further, the plaintiffs prayed that the warrant of seizure and detention issued by the Collector of Custom[s] dated December 9, 1998 be quashed and no public auction sale of the same should be conducted by any government agency or authority.

It is further prayed that after due hearing, judgment be rendered:

- 1.) Making the restraining order and/or preliminary injunction permanent.
- 2.) Ordering the defendants jointly to pay exemplary or corrective damages to the plaintiff[s] in the amount of One Hundred Thousand Pesos (P100,000.00)

Such other relief which are just and demandable under the circumstances are also prayed for.<sup>[2]</sup>

In separate motions, petitioners Bureau of Customs (BOC), Port of Cebu<sup>[3]</sup> and the EIIB, as well as the Philippine Navy and Coast Guard, sought the dismissal of the complaint on the ground that the RTC had no jurisdiction, but their motions were denied. In its resolution, dated January 11, 1999, the RTC said:

The Warrant of Seizure and Detention issued by the Bureau of Customs cannot divest this court of jurisdiction since its issuance is without legal basis as it was anchored merely on suspicion that the items in question were imported or smuggled. It is very clear that the defendants are bereft of any evidence to prove that the goods were indeed imported or smuggled, that is why the plaintiffs have very vigorously protested against the seizure of cargoes by the defendants. In fact, as revealed by defendants' counsel, the Warrant of Seizure and Detention was issued merely to shift the burden of proof to the shippers or owners of the goods to prove that the bags of rice were not imported or smuggled. However, the court feels this is unfair because the settled rule is that he who alleges must prove the same. Besides, at this time when our economy is not good, it would be a [dis]service to the nation to use the strong arm of the law to make things hard or difficult for the businessmen.<sup>[4]</sup>