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provisions for suspension of the canvass and non-proclamation of the candidates affected by the controversy is to sanction gross violations of the provisions designed to avoid "railroading" of proclamation and "grabbing the proclamation at all costs and prolonging the protest" and grave denial of substantive and procedural due process. To say that petitioner has the remedy of an election protest is to beg the question and sidetrack the very issue of nullity *ab initio* of the proclamation. For brevity's sake, I reproduce by reference my separate dissent in the case of *Carlos M. Padilla vs. Comelec*,[16] insofar as *mutatis mutandis*, the legal considerations therein are applicable to the case at bar.

SECOND DIVISION

[G.R. No. L-45588. July 8, 1985]

M/L NEGROS STAR as represented by Owner PITAO ENG LIM, *petitioner, vs.* **HON. ALFREDO PIO DE RODA, JR., in his capacity as Commissioner of Customs,** *respondent.*

SYLLABUS

REMEDIAL LAW; CIVIL SPECIAL CIVIL ACTIONS; *CERTIORARI*; WHEN MOOT AND ACADEMIC.— In G.R. No. L-47093, the Commissioner of Customs asked for extension of time within which to file a petition to review the decision of the Court of Tax Appeals. The extension was granted but subsequently the Commissioner of Customs filed a manifestation to the effect "that he will

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[16] G.R. Nos. 68351-52.

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no longer file a petitioner for review" because "it is believed that on the overall, talking into account the condition of the vessel and the period of time it has been in the custody of the customs authorities, it is believed that the decision of the Court of Tax Appeals adequately vindicates public interests." The decision of the Court of Tax Appeals has become final in the light of the foregoing and, accordingly, the instant petition has become moot and academic.

APPEARANCES OF COUNSEL

Miguel A. Anas for petitioner

RESOLUTION

ABAD SANTOS, *J.*:

In Customs Case No. 76-41, Acting Commissioner of Customs Pedro C. Mendoza, Jr. affirmed the decision of the Collector, Port Zamboanga, ordering the forfeiture of the *ML Negros Star* for violations of Section 2528 and 2530 of the Tariff and Customs Code. Subsequently, Acting Commissioner of Customs Alfredo Pio de Roda, Jr. Denied a motion for reconsideration which prompted Pitao Eng Lim, owner of the vessel, to file the instant petition for *certiorari* praying that the order of forfeiture of the vessel be set aside and that it be returned to the petitioner.

In the comment which the Solicitor General was required to file, he stated that the proper remedy which the petitioner should have pursued is to appeal to the Court of Tax Appeals and that in fact Pitao Eng Lim did file a petition for review with that court. Said petition which was docketed as C.T.A. Case No. 2859 was decided on August 27, 1977. The decision of the Commissioner of Customs was modified by imposing a fine of ₱5,000.00 in lieu of forfeiture.

In G.R. No. L-47093, the Commissioner of Customs asked for extension of time within which to file a petition to review the decision of the Court of Tax Appeals. The extension was

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granted but subsequently the Commissioner of Customs filed a manifestation to the effect "that he will no longer file a petitioner for review" because "it is believed that on the overall, talking into account the condition of the vessel and the period of time it has been in the custody of the customs authorities, it is believed that the decision of the Court of Tax Appeals adequately vindicates public interests."

The decision of the Court of Tax Appeals has become final in the light of the foregoing and, accordingly, the instant petition has become moot and academic.

SO ORDERED.

Makasiar (Chairman), Aquino, Concepcion Jr., Escolin, and *Cuevas, JJ.*, concur.

SECOND DIVISION

[G.R. No. 54167. July 8, 1985]

GODOFREDO M. TRINCHERA, *petitioner, vs.* **FELIX F. EAMIGUEL, in his capacity as appointive City Engineer of Ormoc City, The Hon. Executive Judge Secretary, RAFAEL M. SALAS, and PEDRO F. MARTINEZ, in his capacity as Administrative Investigator, Department of Public Works and Communications,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; ISSUES; ONLY ISSUES SPECIFICALLY RAISED BEFORE THE TRIAL COURT MAY BE ENTERTAINED ON APPEAL.— Petitioner's submittal is totally bereft of merit. Implementation of Administrative Order No. 474 has never been and could not be an issue in the instant appeal since it is a matter never litigated