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[Adm. Matter No. 84-3-886-0. July 7, 1986]

SOLICITOR GENERAL, *complainant, vs.* **HON. PERPETUA D. COLOMA, Presiding Judge, Br. CIX, RTC-Pasay City,** *respondent.*

SYLLABUS

1. **REMEDIAL LAW; COURTS; JURISDICTION OVER VIOLATION OF CENTRAL BANK RULES; SCOPE.**— It is beyond question that by the filing of the information charging a violation of Central Bank rules, involving specifically identified currency, the Court acquired jurisdiction of the offense as well as of the *res*, the money. It acquired plenary power not only to try and decide the chief issue of whether or not a crime had been committed by the accused, but also in the light of the resolution of that chief issue, to make such disposition of the property subject of or otherwise involved in the alleged crime as was needful and proper.

2. **ID.; ID.; ID.; DISTINGUISHED FROM THE EXCLUSIVE JURISDICTION OF THE BUREAU OF CUSTOM IN THE MATTER OF SEIZURE AND FORFEITURE OF GOODS IN ALLEGED INFRINGEMENT OF CUSTOMS OR TARIFF LAWS.**— The case in question is readily distinguishable from those adverted to by the Customs authorities in which this Court had upheld the exercise by them of exclusive jurisdiction in the matter of seizure and forfeiture of goods involved in alleged infringements of customs or tariff laws or regulations. In the latter cases, the Customs authorities had from the outset asserted jurisdiction over the goods claimed to have been imported or attempted to be brought out in violation of customs and tariff laws (or laws or rules for the enforcement of which the Customs authorities are charged) and courts had tried to themselves assume jurisdiction over the same goods. But in the case now before this Court, it was the Customs authorities who had invoked the jurisdiction of the Regional Trial Court and laid squarely before it the matter of the determination of the existence of the offense and the disposition of the property involved; and it was only after they had failed to obtain the judgment they obviously expected that they be

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thought themselves to take over the case by instituting seizure and forfeiture proceedings in their own office. Their cause is not enhanced, parenthetically, by their having avowedly conducted proceedings which they clearly knew to be nothing but an empty ritual. They went through the motions of setting for hearing the seizure case instituted by them for the confiscation of the currency in question, of issuing a declaration of default, and of rendering a "Decision" thereon on March 7, 1984 although they were fully aware that, as already pointed out, the money sought to be forfeited had already long since been brought out of the country by its owner and hence was no longer within their jurisdiction or that of any court or entity in the Philippines.

3. **ID.; ID.; JURISDICTION; CANNOT BE INVOKED TO SECURE AFFIRMATIVE RELIEF AGAINST HIS OPPONENT.**— It is beyond question that after invoking the jurisdiction of the Regional Trial Court and actively participating in the prosecution of the case before it, the Customs officials cannot now be permitted to repudiate that jurisdiction or divest the Court of authority over the currency involved in the supposed offense by a subsequent claim of exclusive jurisdiction over the same currency, specially where the Court has already adjudged, after due trial, that the money, not being subject of any crime, should be returned to the owner. Settled is the doctrine that. "x x x a party can not invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (*Dean vs. Dean*, 136 Or. 694, 86 A.L.R. 79). In the case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or of the parties was not important in such cases because the party is barred from such conduct *not because the judgment or order of the court is valid and conclusive as an adjudication but for the reason that such a practice can not be tolerated* -- obviously for reasons of public policy. "Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court (*Peace vs. Rathbun-Jones, etc.*, 243 U.S. 273, 61 L. Ed. 715, 37 S. Ct. 283; *St. Luis, etc. vs. McBride*, 141 U.S. 127, 35 L. Ed. 659). And in *Littleton vs.*

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Burgess, 16 Wyo. 58, the Court said that it is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty."

DECISION

NARVASA, *J.*:

The Acting Collector of Customs of Manila and certain of his officers and employees —

1) having initiated and caused the prosecution before the Regional Trial Court at Pasay City of a British subject (Shirley Cheng Lai Har) for a violation of Central Bank rules supposedly committed at the Manila International Airport on *January 19, 1984*, i.e., attempting to take out foreign currency from the Philippines without due authority;[1]
2) having presented in evidence before the Court not only the testimony of the Customs employees who apprehended the tourist, or had otherwise taken material part in the case, but also the foreign and local currency seized from said tourist;[2]
3) having however failed to convince the Trial Court that the crime charged had indeed been committed, in consequence of which the Court promulgated judgment on *February 13, 1984* acquitting the tourist and directing the return to her of the currency taken from her;[3]
4) having on *February 17, 1984* drawn the attention of the Trial Court to the fact that they had commenced, allegedly on *February 13, 1984* also, seizure and forfeiture proceedings relative to the currency subject of the unsuccessful prosecution,

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[1] The information and the evidence leading to the filing thereof, submitted by the Customs officers or employees concerned, are found at pp. 109 (2) (69) to (86) of the *rollo*.

[2] The foreign currency was marked as Exhibits F-1 to F-471 and submitted to and admitted by the Trial Court in evidence.

[3] The judgment of respondent Judge is found at pp. 67-75 of the *rollo*.

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and that, as a result, the Court had been divested of power to order the return of the foreign currency to the accused, since under the law the Bureau of Customs had exclusive jurisdiction over the matter;[4]

5) having failed to persuade the Trial Court of the correctness of their position, the Court having opined that the Customs authorities had themselves submitted the case to its jurisdiction and had thereby invested the Court with exclusive power to decide said case on the merits as well as all related incidents, inclusive of the disposition of the foreign currency subject of the offense charged;[5]

6) having failed, too, to persuade the Trial Court of the existence of any valid reason to warrant their being given time to elevate the matter to higher courts, said Court having instead directed on *February 17, 1984* the release and delivery to the acquitted accused of the foreign currency subject of the prosecution, there being in the view of the Court urgent reason for the tourist's immediate return to her home in Hongkong, apart from the fact that her return home had already been considerably delayed by the case filed against her;[6] and

7) having thereafter conducted seizure proceedings for the avowed purpose of bringing about the forfeiture to the Government of the foreign currency subject of the unsuccessful prosecution in Court, culminating in the rendition by the Acting Collector of a "Decision" on *March 7, 1984* decreeing such forfeiture, this, despite their full awareness that the currency sought to be forfeited had already been brought out of the country by its owner as early as February 17, 1984 and therefore was no longer within the jurisdiction of the Customs authorities[7] —

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[4] SEE "Manifestation of Intervention and Opposition to Order," p. 109 (163), *rollo*.

[5] SEE TSN, February 17, 1984, pp. 109 (286) et seq, *Rollo*, and Order of respondent Judge promulgated on the same day, February 17, 1984, pp. 109 (169)-(170), *rollo*.

[6] Pp. 109 (142)-(145). *rollo*.

[7] Exh. "I", Folder of Exhibits for complainant.

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they now assail in this Court the actuations of the Trial Judge as constituting "grave abuse of discretion" deserving of administrative sanction.[8]

It is beyond question that by the filing of the information charging a violation of Central Bank rules, involving specifically identified currency, the Court acquired jurisdiction of the offense as well as of the *res*, the money.[9] It acquired plenary power not only to try and decide the chief issue of whether or not a crime had been committed by the accused, but also in the light of the resolution of that chief issue, to make such disposition of the property subject of or otherwise involved in the alleged crime as was needful and proper.[10]

It is also beyond question that after invoking the jurisdiction of the Regional Trial Court and actively participating in the prosecution of the case before it, the Customs officials cannot now be permitted to repudiate that jurisdiction or divest the

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[8] The letter of the Solicitor General dated March 27, 1984, drawing attention of this Court to respondent Judge's ostensible "grave abuse of discretion," is found at p. 5, *rollo*.

[9] *U.S. vs. Narvas*, 14 Phil. 410, 411, 412; *U.S. vs. Castañares*, 18 Phil. 210, 213, 214; *U.S. vs. Ortiz and Regalado*, 19 Phil. 174, 175; *U.S. vs. Dela Cruz and Reyes*, 20 Phil. 363, 366-367; *U.S. vs. De los Santos*, 21 Phil. 404, 406; *U.S. vs. Garcia*, 27 Phil. 254, 255-256; *Banco Español Filipino vs. Palanca*, 37 Phil. 921, 927-928; *People vs. Manaba*, 58 Phil. 665, 667-668; *Caluag vs. Pecson*, 82 Phil. 8, 12-13; *Layosa vs. Rodriguez*, 86 SCRA 300, 303; *Villa vs. Ibañez*, 88 Phil. 402, 405; *People vs. Santos*, 101 Phil. 798, 800-801; *People vs. Bangalao*, 50 O.G. 4860, 4862; *Astero vs. Chief of Police*, 28 SCRA 1078, 1081-1082; *People vs. Zurbano*, 37 SCRA 565, 567-568.

[10] Art. 45, Revised Penal Code; 21 C.J.S. 121-122; *U.S. vs. Bertocio*, 1 Phil. 47, 50; *U.S. vs. Surla*, 20 Phil. 163, 167-168; *U.S. vs. Gacutan*, 28 Phil. 100, 104; *U.S. vs. Bruhez*, 28 Phil. 305, 309-310; *U.S. vs. Hermosilla*, 31 Phil. 405, 411; *Villaruz vs. CFI*, 71 Phil. 72, 77; *Commissioner vs. Encarnacion and Sadia*, 95 Phil. 439, 442-443; *People vs. Exconde*, 101 Phil. 1125, 1132-1134; *Collector vs. CTA*, 102 Phil. 244, 254-255; *People vs. Jollife*, 105 Phil. 677, 688; *Commissioner vs. Capistrano*, 108 Phil. 694, 696-697; *People vs. De Leon*, 109 Phil. 574; *People vs. De Ocampo*, 20 SCRA 984, 986; *People vs. Doria*, 55 SCRA 436, 449.

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Court of authority over the currency involved in the supposed offense by a subsequent claim of exclusive jurisdiction over the same currency, specially where the Court has already adjudged, after due trial, that the money, not being subject of any crime, should be returned to the owner. Settled is the doctrine that.

"x x x a party can not invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (*Dean vs. Dean*, 136 Or. 694, 86 A.L.R. 79). In the case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or of the parties was not important in such cases because the party is barred from such conduct *not because the judgment or order of the court is valid and conclusive as an adjudication but for the reason that such a practice can not be tolerated* — obviously for reasons of public policy.

"Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court (*Peace vs. Rathbun-Jones, etc.*, 243 U.S. 273, 61 L. Ed. 715, 37 S. Ct. 283; *St. Luis, etc. vs. McBride*, 141 U.S. 127, 35 L. Ed. 659). And in *Littleton vs. Burgess*, 16 Wyo. 58, the Court said that it is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty."[11]

The case in question is readily distinguishable from those adverted to by the Customs authorities in which this Court had upheld the exercise by them of exclusive jurisdiction in the

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[11] *Tijam v. Sibonghanoy*, 23 SCRA 29, 34, 35-37; see, also: *Rodriguez v. CA*, 29 SCRA 419, 428-429; *Vera v. People*, 31 SCRA 711, 715; *Crisostomo v. CA*, 32 SCRA 54, 57-58; *Quimpo v. de la Victoria*, 46 SCRA 139, 145-146; *Zulueta v. Panam*, 49 SCRA 1, 6; *Libudan v. Gil*, 45 SCRA 17, 34-35; *Ong Ching v. Ramolete*, 51 SCRA 13, 20; *People v. Munar*, 53 SCRA 278, 281-283; *Capilitan v. de la Cruz*, 55 SCRA 706, 712; *Solano v. CA*, 126 SCRA 122, 234; *Royales v. IAC*, 127 SCRA 470, 474; *Saulog Transit v. Tajaro*, 128 SCRA 591, 601; *Florendo v. Coloma*, 129 SCRA 304, 311-321; *People v. Escalante*, 131 SCRA 237, 250.

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matter of seizure and forfeiture of goods involved in alleged infringements of customs or tariff laws or regulations.[12] In the latter cases, the Customs authorities had from the outset asserted jurisdiction over the goods claimed to have been imported or attempted to be brought out in violation of customs and tariff laws (or laws or rules for the enforcement of which the Customs authorities are charged) and courts had tried to themselves assume jurisdiction over the same goods. But in the case now before this Court, it was the Customs authorities who had invoked the jurisdiction of the Regional Trial Court and laid squarely before it the matter of the determination of the existence of the offense and the disposition of the property involved; and it was only after they had failed to obtain the judgment they obviously expected that they be thought themselves to take over the case by instituting seizure and forfeiture proceedings in their own office.

Their cause is not enhanced, parenthetically, by their having avowedly conducted proceedings which they clearly knew to be nothing but an empty ritual. They went through the motions of setting for hearing the seizure case instituted by them for the confiscation of the currency in question, of issuing a declaration of default, and of rendering a "Decision" thereon on March 7, 1984[13] although they were fully aware that, as

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[12] In their "Manifestation, etc." dated February 17, 1984 (footnote 4), they make vague, imprecise reference to "the Pascual, Seneres and de Veyra cases." The Solicitor General's Memorandum (pp. 146, 153, *rollo*) cites *Papa vs. Mazo*, 22 SCRA 858 (1968); *Pacis vs. Averia*, 18 SCRA 907 (1966); *Pacis vs. Geronimo*, 56 SCRA 583 (1974); *De Joya vs. Lantin*, 19 SCRA 893 (1967). Other cases to the same effect are: *Commissioner, etc. vs. Cloribel*, 19 SCRA 234, 243; *Collector of Customs vs. Caluag*, 20 SCRA 204, 208; *Romualdez vs. Arca*, 21 SCRA 856, 858-859; *De Joya vs. David*, 21 SCRA 1493, 1498-1499; *Cadiz vs. Secretary of National Defense*, 25 SCRA 419, 421; *Southwest Agricultural Marketing vs. Secretary of Finance*, 25 SCRA 452, 455; *Diosamito vs. Balangue*, 28 SCRA 836, 839-840; *Ponce Enrile vs. Vinuya,* 87 SCRA 321, 386, 388; *Luna vs. Pacis*, 38 SCRA 189, 192-193; *Auyong Hian vs. CTA*, 59 SCRA 110, 130; *Commissioner of Customs vs. Navarro*, 77 SCRA 264, 267.

[13] Exh. "I" *supra.*

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already pointed out, the money sought to be forfeited had already long since been brought out of the country by its owner and hence was no longer within their jurisdiction or that of any court or entity in the Philippines.

Finally, reference must be made to the findings of the Hon. Justice Bienvenido Ejercito of the Intermediate Appellate Court, to whom this Court referred the proceedings at bar for investigation and report,[14] to the effect that.

"x x x. The undersigned Investigator therefore, concludes that respondent honestly believed that her action in ordering the return of the foreign exchange to the accused was correct and that she did not have to allow the customs lawyer an opportunity to elevate the ruling to the proper appellate court x x x. Considering x x x the pressing circumstances under which respondent had to labor at the time in her belief that it was a tourist case and that it was too late for the Customs to file the warrant of seizure and detention after the decision of the respondent judge had already been promulgated, the undersigned believes that there was no malice or bad faith in the actuations of the respondent judge in not giving time for the customs lawyer to appeal her order of release. The undersigned therefore recommends that the charges against respondent for misconduct be dismissed."[15]

WHEREFORE, the charges against respondent Judge are dismissed.

SO ORDERED.

Teehankee, C.J., Abad Santos, Feria, Yap, Fernan, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and *Paras, JJ.*, concur.

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[14] Resolution, April 26, 1984.

[15] Report, June 26, 1985, pp. 27-28.