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**SECOND DIVISION**

[G.R. No. 73722. February 26, 1990]

**THE COMMISSIONER OF CUSTOMS,** *petitioner, vs.* **K.M.K. GANI, INDRAPAL & CO., and the HONORABLE COURT OF TAX APPEALS,** *respondents.*

**SYLLABUS**

1. **COMMERCIAL LAW; CORPORATIONS; FOREIGN CORPORATIONS; ISOLATED TRANSACTION RULE, RESTATED.** — The Court in a long line of cases has held that a foreign corporation not engaged in business in the Philippines may not be denied the right to file an action in the Philippine courts for an isolated transaction.

2. **ID.; ID.; ID.; ID.; FOREIGN CORPORATIONS SUING PURSUANT TO "ISOLATED TRANSACTION RULE" MUST PROVE THEIR LEGAL EXISTENCE OR JURIDICAL PERSONALITY AS SUCH CORPORATION.** — We are cognizant of the fact that under the "isolated transaction rule," only foreign corporations and not just any business organization or entity can avail themselves of the privilege of suing before Philippine courts even without a license. Counsel Armando S. Padilla stated before the respondent Court of Tax Appeals that his clients are "suing upon a singular and isolated transaction." But there is no proof to show that K.M.K. and INDRAPAL are indeed what they are represented to be. It has been simply stated by Attorney Padilla that K.M.K. Gani is "a single proprietorship," while INDRAPAL is "a firm," and both are "doing business in accordance with the laws of Singapore . . .," with specified addresses in Singapore. In cases of this nature, these allegations are not sufficient to clothe a claimant of suspected smuggled goods of juridical personality and existence. The "isolated transaction rule" refers only to foreign corporations. Here the petitioners are not foreign corporations. They do not even pretend to be so. The first paragraph of their petition before the Court, containing the allegations of their identities, does not even aver their corporate character. On the contrary,

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K.M.K. alleges that it is a "single proprietorship" while INDRAPAL hides under the vague identification as a "firm," although both describe themselves with the phrase "doing business in accordance with the laws of Singapore." Absent such proof that the private respondents are corporations (foreign or not), the respondent Court of Tax Appeals should have barred their invocation of the right to sue within Philippine jurisdiction under the "isolated transaction rule" since they do not qualify for the availment of such right.

3. **LEGAL ETHICS; ATTORNEYS; ATTORNEY-CLIENT RELATIONSHIP; A LAWYER WHO REPRESENTS FOREIGN CORPORATION MUST PROVE HIS AUTHORITY; RATIONALE.** — The appearance of Atty. Armando S. Padilla as counsel for the two claimants would not suffice. Generally, a "lawyer is presumed to be properly authorized to represent any cause in which he appears, and no written power of attorney is required to authorize him to appear in court for his client." Nevertheless, although the authority of an attorney to appear for and on behalf of a party may be assumed, it can still be questioned or challenged by the adverse party or party concerned. The presumption established under the provision of Section 21, Rule 138 of the Revised Rules of Court is disputable. The requirement for the production of authority is essential because the client will be bound by his acquiescence resulting from his knowledge that he was being represented by said attorney.

**APPEARANCES OF COUNSEL**

*The Solicitor General* for petitioner.
*Armando S. Padilla* for private respondent.

**D E C I S I O N**

**SARMIENTO, *J.*:**

This is a review of the decision of the Court of Tax Appeals disposing as follows:

WHEREFORE, the subject ten (10) cartons of Articles are hereby released to the carrying airline for immediate transshipment to the

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country of destination under the terms of the contract of carriage. No costs.

SO ORDERED.[1]

The pertinent facts may be summarized thus:

On September 11, 1982, two (2) containers loaded with 103 cartons of merchandise covered by eleven (11) airway bills of several supposedly Singapore-based consignees arrived at the Manila International Airport on board Philippine Air Lines (PAL) Flight PR 311 from Hongkong. The cargoes were consigned to these different entities: K.M.K Gani (hereafter referred to as K.M.K.) and Indrapal and Company (hereafter referred to as INDRAPAL), the private respondents in the petition before us; and Sin Hong Lee Trading Co., Ltd., AAR TEE Enterprises, and C. Ratilal, all purportedly based in Singapore.

While the cargoes were at the Manila International Airport, a "reliable source" tipped off the Bureau of Customs that the said cargoes were going to be unloaded in Manila. Forthwith, the Bureau's agency on such matters, the Suspected Cargo and Anti-Narcotics (SCAN), dispatched an agent to verify the information. Upon arriving at the airport, the SCAN agent saw an empty PAL van parked directly alongside the plane's belly from which cargoes were being unloaded. When the SCAN agent asked the van's driver why he was at the site, the driver drove away in his vehicle. The SCAN agent then sequestered the unloaded cargoes.

The seized cargoes consisted of 103 cartons "containing Mogadon and Mandrax tablets, Sony T.V. sets 1546R/1746R kw, Sony Betamax SL5800, and SL5000, Cassette Stereos with Headphone (*ala* walkman), Casio Calculators, Pioneer Car Stereos, Yamaha Watches, Eyeglass Frames, Sunglasses, Plastic Utility Bags, Perfumes, *etc.*" These goods were transferred to the International Cargo Terminal under Warrant of Seizure and Detention and thereafter subjected to Seizure and Forfeiture proceedings for "technical smuggling."

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[1] *Rollo*, 59.

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At the hearing, Atty. Armando S. Padilla entered his appearance for the consignees K.M.K. and INDRAPAL. The records of the case do not show any appearance of the consignees in person. Atty. Padilla moved for the transshipment of the cargoes consigned to his clients. On the other hand, the Solicitor General avers that K.M.K. and INDRAPAL did not present any testimonial or documentary evidence. The Collector of Customs at the then Manila International Airport (MIA), now Ninoy Aquino International Airport (NAIA), ruled for the forfeiture of all the cargoes in the said containers (Seizure Identification No. 4993-82, dated July 14, 1983). Consequently, Atty. Padilla ostensibly on behalf of his two clients, K.M.K. and INDRAPAL appealed the order to the Commissioner of Customs.[2]

The Commissioner of Customs affirmed the finding of the Collector of Customs (Customs Case No. 83-85, January, 1984), of the presence of the intention to import the said goods in violation of the Dangerous Drugs Act[3] and Central Bank Circular No. 808 in relation to the Tariff and Customs Code.[4]

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[2] *Rollo*, 55.

[3] Republic Act No. 6425 (1972) as amended by Pres. Decree No. 44.

[4] Republic Act No. 1937 as amended by Pres. Decree No. 34.

The pertinent provisions are as follows:

Sec. 2530. Property subject to Forfeiture Under Tariff and Customs Law — Any vehicle, vessel or aircraft, cargo, article and other subjects shall, under the following conditions be subjected to forfeiture:

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(f) Any article the importation or exportation of which is effected or attempted contrary to law, or any articles of prohibited importation or exportation, and all other articles which, in the opinion of the collector, have been used, are or were entered to be used as instruments in the importation or exportation of the former;

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(i) Any package of imported article which is found by the examining official to contain any article not specified in the invoice or entry including all other packages purportedly containing imported articles similar to those declared in the invoice or entry to be contents of the misdeclared package: Provided, that the Collector is of the opinion that the misdeclaration was contrary to law;

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The Commissioner added the following findings of fact:[5]

1. There is a direct flight from Hongkong to Singapore, thus making the transit through Manila more expensive, tedious, and circuitous.

2. The articles were grossly misdeclared, considering that Singapore is a free port.

3. The television sets and betamax units seized were of the American standard which is popularly used in Manila, and not of the European standard which is used in Singapore.

4. One of the shippers is a Filipino national with no business connection with her alleged consignee in Singapore.

5. The alleged consignee of the prohibited drugs confiscated has no authority to import Mogadon or Mandrax.

Upon these findings, the Commissioner concluded that there was an "intent to unlade" in Manila, thus, an attempt to smuggle goods into the country.

Taking exception to these findings, Atty. Armando S. Padilla, again as counsel of the consignees K.M.K and Indrapal, appealed to the respondent Court of Tax Appeals (CTA). He argued in the CTA that K.M.K. and INDRAPAL were "entitled to the

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(m) Any article sought to be imported or exported:

1) Without going through a customhouse, whether the act was consummated, frustrated or attempted;

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3) On the strength of a false declaration or affidavit executed by the owner, importer, exporter or consignee concerning the importation of such article;

4) On the strength of a false invoice or other document executed by the owner, importer, exporter or consignee concerning the importation or exportation of such article; and

5) Through any other practice or device contrary to law by means of which such articles were entered through a customhouse to the prejudice of the government.

[5] *Rollo*, 21-22.

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release of their cargoes for transshipment to Singapore so manifested and covered by the Airway bills as in transit, x x x contending that the goods were never intended importations into the Philippines and the same suffer none of any affiliating breaches allegedly found attributable to the other shipments under the Customs and related laws."[6]

The CTA reversed the decision of the Commissioner of Customs. Hence this petition.

The petitioner raises the following errors:

1. THE COURT OF TAX APPEALS ERRED IN ENTERTAINING THE PETITION FOR REVIEW NOTWITHSTANDING HEREIN PRIVATE RESPONDENTS' FAILURE TO ESTABLISH THEIR PERSONALITY TO SUE IN A REPRESENTATIVE CAPACITY.

2. THE COURT OF TAX APPEALS ERRED IN RULING THAT THE SUBJECT GOODS WERE IMPORTATIONS NOT INTENDED FOR THE PHILIPPINES BUT FOR SINGAPORE, THUS, NOT VIOLATING THE LAW ON TECHNICAL SMUGGLING UNDER THE TARIFF AND CUSTOMS CODE.

The issues before us are therefore: (1) whether or not the private respondents failed to establish their personality to sue in a representative capacity, hence making their action dismissable, and (2) whether or not the subject goods were importations intended for the Philippines in violation of the Tariff and Customs Code.

We answer both questions in the affirmative.

The law is clear: "No foreign corporation transacting business in the Philippines without a license, or its successors or assigns, shall be permitted to maintain or intervene in any action, suit or proceeding in any court or administrative agency of the Philippines; but such corporation may be sued or proceeded against before Philippine courts or administrative tribunals on any valid cause of action recognized under Philippine laws."[7]

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[6] *Rollo*, 55-56.

[7] Corporation Code, Sec. 133 (formerly Sec. 69); *Top-Weld Man, Inc. v. Eced S.A., et al.*, L-44944, August 9, 1985, 138 SCRA 118; *Far East*

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However, the Court in a long line of cases has held that a foreign corporation not engaged in business in the Philippines may not be denied the right to file an action in the Philippine courts for an isolated transaction.[8]

Therefore, the issue on whether or not a foreign corporation which does not have a license to engage in business in this country can seek redress in Philippine courts boils down as to whether it is doing business or merely entered into an isolated transaction in the Philippines.

The fact that a foreign corporation is not doing business in the Philippines must be disclosed if it desires to sue in Philippine courts under the "isolated transaction rule." Without this disclosure, the court may choose to deny it the right to sue.[9]

In the case at bar, the private respondents K.M.K. and INDRAPAL aver that they are "suing upon a singular and isolated transaction." But they failed to prove their legal existence or juridical personality as foreign corporations. Their unverified petition before the respondent Court of Tax Appeals merely stated:

1. That petitioner "K.M.K. Gani" is a single proprietorship doing business in accordance with the laws of Singapore with address at 99 Greenfield Drive, Singapore, Rep. of Singapore, while Petitioner "INDRAPAL and COMPANY" is a firm doing business in accordance with the laws of Singapore with office address at 97 High Street, Singapore 0641, Republic of Singapore, and summons as well as other Court process may be served to the undersigned lawyer;

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*Int.'l Import Export v. Nankai Kogyo Co., Ltd.*, L-13525, November 30, 1962, 6 SCRA 725; *Mentholatum v. Mangaliman*, 72 Phil. 524.

[8] *Bulakhidas v. Navarro*, L-49695, April 7, 1986, 142 SCRA 1; *Antam Consolidated, Inc. v. C.A.*, No. 61523, July 31, 1986, 143 SCRA 288; *Univ. Rubber Products Inc. v. C.A.*, No. L-30266, June 29, 1984, 130 SCRA 104.

[9] *Atlantic Mutual Insurance Co. v. Cebu Stevedoring Co.*, No. L-18961, August 31, 1966, 17 SCRA 1037.

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2. That the Petitioner's (sic) are sueing (sic) upon a singular and isolated transaction.[10]

We are cognizant of the fact that under the "isolated transaction rule," only foreign corporations and not just any business organization or entity can avail themselves of the privilege of suing before Philippine courts even without a license. Counsel Armando S. Padilla stated before the respondent Court of Tax Appeals that his clients are "suing upon a singular and isolated transaction." But there is no proof to show that K.M.K. and INDRAPAL are indeed what they are represented to be. It has been simply stated by Attorney Padilla that K.M.K. Gani is "a single proprietorship," while INDRAPAL is "a firm," and both are "doing business in accordance with the laws of Singapore x x x," with specified addresses in Singapore. In cases of this nature, these allegations are not sufficient to clothe a claimant of suspected smuggled goods of juridical personality and existence. The "isolated transaction rule" refers only to foreign corporations. Here the petitioners are not foreign corporations. They do not even pretend to be so. The first paragraph of their petition before the Court, containing the allegations of their identities, does not even aver their corporate character. On the contrary, K.M.K. alleges that it is a "single proprietorship" while INDRAPAL hides under the vague identification as a "firm," although both describe themselves with the phrase "doing business in accordance with the laws of Singapore."

Absent such proof that the private respondents are corporations (foreign or not), the respondent Court of Tax Appeals should have barred their invocation of the right to sue within Philippine jurisdiction under the "isolated transaction rule" since they do not qualify for the availment of such right.

As we had stated before:

But merely to say that a foreign corporation not doing business in the Philippines does not need a license in order to sue in our courts does not completely resolve the issue in the present case.

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[10] *Rollo*, 39, Petition for Review, CTA Case No. 3831.

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The proposition, as stated, refers to the right to sue; the question here refers to pleading and procedure. It should be noted that insofar as the allegations in the complaint have a bearing on appellant's capacity to sue, all that is averred is that they are both foreign corporations existing under the laws of the United States. This averment conjures two alternative possibilities: either they are engaged in business in the Philippines or they are not so engaged. If the first, they must have been duly licensed in order to maintain this suit; if the second, if (sic) the transaction sued upon is singular and isolated, no such license is required. In either case, the qualifying circumstance is an essential part of the element of plaintiff's capacity to sue and must be affirmatively pleaded.[11]

In this connection, we note also a fatal defect in the pleadings of the private respondents. There is no allegation as to who is the duly authorized representative or resident agent in our jurisdiction. All we have on record are the pleadings filed by Attorney Armando S. Padilla who represents himself as the counsel for the private respondents.

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It is incumbent on plaintiff to allege sufficient facts to show that he is concerned with the cause of action averred, and is the party who has suffered injury by reason of the acts of defendant; in other words, it is not enough that he alleges a cause of action existing in favor of someone, but he must show that it exists in favor of himself. The burden should not be placed on defendant to show that plaintiff is not the aggrieved person and that he has sustained no damages. It is also necessary for plaintiff to allege facts showing that the causes of action alleged accrued to him in the capacity in which he sues, and for this purpose it is necessary for someone for one who sues otherwise than in his individual capacity to allege his authority.

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The plaintiff must show, in his pleading, his right and interest in the subject matter of the suit; and a complaint which does not show

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[11] *Atlantic Mutual Insurance Co. v. Cebu Stevedoring Co., supra*, note 9 at 1040.

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that plaintiff has the requisite interest to enable him to maintain his action should be dismissed for insufficiency . . .[12]

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The appearance of Atty. Armando S. Padilla as counsel for the two claimants would not suffice. Generally, a "lawyer is presumed to be properly authorized to represent any cause in which he appears, and no written power of attorney is required to authorize him to appear in court for his client."[13] Nevertheless, although the authority of an attorney to appear for and on behalf of a party may be assumed, it can still be questioned or challenged by the adverse party concerned.[14]

The presumption established under the provision of Section 21, Rule 138 of the Revised Rules of Court is disputable.[15] The requirement for the production of authority is essential because the client will be bound by his acquiescence resulting from his knowledge that he was being represented by said attorney.[16]

The Solicitor General, representing the petitioner-appellant, not only questions the authority of Atty. Armando S. Padilla to represent the private respondents but also the latter's capacity to sue:

x x x While it is alleged that the summons and court processes may be served to herein private respondents' counsel who filed the unverified petition before the Court of Tax Appeals, the allegation would be insufficient for the purpose of binding foreign corporations as in the instant case. To be sure, the admitted absence

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[12] 71 C.J.S. 187, Pleading.

[13] Section 21, Rule 138, Revised Rules of Court, cited in *Republic vs. Soriano*, G.R. 76944, promulgated on December 20, 1988.

[14] *Aberca vs. Ver*, No. 69866, promulgated on April 15, 1988, 160 SCRA 590.

[15] *Azotes vs. Blanco*, 78 Phil. 739; *Garostiaga vs. Sarte*, 68 Phil. 4; *Tan Lua vs. O'Brien*, 55 Phil. 53.

[16] *Tan Lua vs. O'Brien, supra.*

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of special power of attorney in favor of their counsel, the relationship with the latter, if at all, is merely that of a lawyer-client relationship and definitely not one of a principal-agent. Such being the case, said counsel cannot bind nor compromise the interest of private respondents as it is possible that the latter may disown the former's representation to avoid civil or criminal liability. In this respect, the Court cannot assume jurisdiction over the person of private respondents, notwithstanding the filing of the unverified petition in question.

Apart from the foregoing, Section 4, Rule 8, Revised Rules of Court mandates that facts showing the capacity of a party to sue or be sued; or the authority of a party to sue or be sued in a representative capacity; or the legal existence of an organized association of person (sic) that is made a party, must be averred. In like manner, the rule is settled that in case where the law denies a foreign corporation to maintain a suit unless it has previously complied with certain requirements, then such compliance or exemption therefrom, becomes a necessary averment in the complaint (*Atlantic Mutual Inc. Co. v. Cebu Stevedoring Co., Inc.,* 17 SCRA 1037; *vide*: Sec. 4, Rule 8, Revised Rules of Court). In the case at bar, apart from merely alleging that private respondents are foreign corporation (sic) and that summons may be served to their counsel, their petition in the Court of Tax Appeals is bereft of any other factual allegation to show their capacity to sue or be sued in a representative capacity in his jurisdiction.[17]

The representation and the extent of the authority of Atty. Padilla have thus been expressly challenged. But he ignored such challenge which leads us to the only conclusion that he has no authority to appear for such clients if they exist, which we even doubt. In cases like this, it is the duty of the government officials concerned to require competent proof of the representation and authority of any claimant of any goods coming from abroad and seized by our customs authorities or otherwise appearing to be illegally imported. This desired meticulousness, strictness if you may, should extend to their representatives and counsel. Our government has lost considerable sums of money due to such dubious claims or claimants.

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[17] Petition, 6-8; *Rollo*, 11-13.

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Apropos the second issue, suffice it to state that we agree with the findings, already enumerated and discussed at the outset, made by the Collector of Customs in his decision, dated July 14, 1983, which was affirmed and amplified by the decision of the Commissioner of Customs, that those constitute sufficient evidence to support the conclusion that there was an intention to unlade the seized goods in the Philippines instead of its supposed destination, Singapore. There is no need of belaboring them anymore.

**WHEREFORE,** the petition is *GRANTED*; the decision of the Court of Tax Appeals is *SET ASIDE*, and the decision of the petitioner is hereby *REINSTATED*.

No costs.

**SO ORDERED.**

*Melencio-Herrera (Chairperson), Paras, Padilla,* and *Regalado, JJ.*, concur.

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**THIRD DIVISION**

[G.R. Nos. 76338-39. February 26, 1990]

**PEOPLE OF THE PHILIPPINES,** *plaintiff-appellee, vs.* **RENATO TAC-AN *Y* HIPOS,** *accused-appellant.*

**SYLLABUS**

**1. CRIMINAL LAW; JUSTIFYING CIRCUMSTANCES; SELF-DEFENSE; REQUISITES.** — Renato claimed that he was acting in self-defense, or at least in incomplete self-defense, when he shot Francis. For a claim of self-defense to be sustained, the claimant must show by clear and convincing evidence that the following requisites existed: a) unlawful aggression on the