

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

HANNAH CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 4977

COMMISSIONER OF CUSTOMS,
Respondent.

x- - - - - x

1/18/94

RESOLUTION

Pending before us for resolution is a "MOTION TO DISMISS" dated July 28, 1993 filed by the respondent and a "Motion" dated July 30, 1993 filed by the petitioner praying that the respondent be declared in default for its failure to file his answer within the reglementary period.

The present case arose from an order of the Collector of Customs dated May 30, 1991 denying the petitioner's motion to intervene in a forfeiture case (S.I. 152-89) involving 150 pcs. of imported UZI submachineguns. The consignees, the Philippine Constabulary and the Integrated National Police, were declared in default for their failure to appear at the pre-trial despite due notice. The denial was based on the ground that the motion for intervention

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was filed out of time and that the petitioner had failed to establish its right of ownership over the subject shipment. Thereafter, it filed a motion for reconsideration with the respondent, who, in an order dated March 15, 1993, denied with finality the petitioner's appeal, this time on the ground that the decision in S.I. 152-89 has already become final and executory. Thus, the instant petition.

The respondent now seeks for a dismissal of the petition alleging that this Court has no jurisdiction to adjudicate on the matters being prayed for.

We sustain the contention of the respondent.

The prayer of the instant petition, as amended, provides:

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1) to reverse and set aside the Order of former Customs Commissioner Salvador Mison dated July 18, 1991, denying the intervention of Petitioner HANNAH CORPORATION in the seizure case (S.I. No. 152-89, NA1A), later reiterated by Deputy Commissioner Evangelista in his Order dated March 15, 1993;

2) to direct the respondent Commissioner of Customs allow HANNAH to intervene in the seizure case in order to assert and substantiate its rights over the import shipment of 150 U/I submachine guns involved in the case and to contest

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the seizure and forfeiture thereof by the Bureau of Customs;

3) to immediately issue an order restraining the Bureau of Customs and/or any person, office or agency acting by virtue thereof, from enforcing, implementing or giving effect to the Decision of NALA District Collector Antonio V. Marquez dated October 1, 1992 until HANNAH's right to intervene is finally resolved and the question of forfeitability of the subject shipment is finally decided and until further orders from this Honorable Court

"xxx

xxx

xxx

It is clear that the petitioner basically seeks for the reversal of the order of the respondent herein denying its motion to intervene in S.I. 152-89 which has already become final for failure of the respondents therein to appeal within the reglementary period.

Ordinarily, intervention is a proceeding in a suit or action by which a third person is permitted by the court to make himself a party, either joining plaintiff or petitioner in claiming what is sought in the action filed, or uniting with defendant in resisting the claims of the plaintiff, or demanding something adversely to both of them; the act or proceeding by which a third person becomes a party to a suit pending between others; the admission, by leave of court, of a person not an original party to

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pending legal proceedings, by which such person becomes a party thereto for the protection of some right or interest alleged by him to be affected by such proceedings (Eulalio Garcia vs. Sinforosa C. David, et. al., 67 Phil. 279). Fundamentally therefor, an intervention is merely collateral or accessory or ancillary to the principal action and not an independent proceeding being a mere interlocutory proceeding dependent on or subsidiary to the case between the original parties. Consequently, the dismissal of the principal action results in the dismissal of the ancillary action of intervention (Ordonez vs. Gustillo 192 SCRA 469).

Corollarily, if the principal action has already attained finality, as in the present case, the right to intervene likewise ceases to exist. Thus, the Supreme Court held:

"In the case at bar, there is no more principal action to be resolved as a writ of execution had already been issued by the lower court and the claim of Equitable had already been satisfied. The decision of the lower court had already become final and in fact had already been enforced. There is therefore no more principal proceeding in which the petitioners may intervene." (Saw vs. Court of Appeals, 195 SCRA 740, 746)

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Parenthetically, it may be worth mentioning that the Supreme Court had the occasion to rule that this Court has no jurisdiction to issue writs of injunction or prohibition independently of, and apart from, an appealed case, inasmuch as they are merely *ancillary* to and in furtherance of its appellate jurisdiction (*Commissioner of Customs vs. Alikpala*, 36 SCRA 208).

Moreover the petitioner must also bear in mind that this Court is already deprived of any power to set aside a decision of the respondent which has attained finality. Time and again, it has been consistently pronounced that once a decision has become final, the Court can no longer amend, modify, much less set aside the same (*Adez Realty Inc. vs. Court of Appeals*, 212 SCRA 623; *Duenas vs. Mandi* 161 SCRA 630; *Icao vs. Apalisok* 180 SCRA 680)

In view of the foregoing, the matter raised in the "Motion" of the petitioner dated July 30, 1993 need no further discussion, it having been rendered moot and academic.

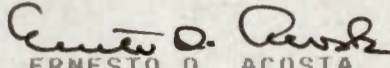
ACCORDINGLY, respondent's motion to dismiss is hereby granted. The case is dismissed for lack of jurisdiction.

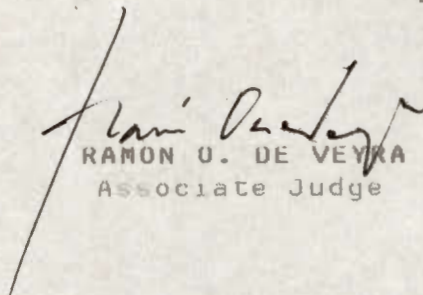
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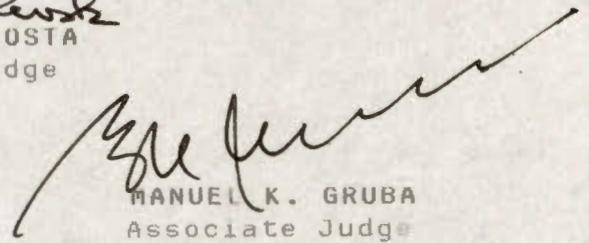
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SO ORDERED.

Quezon City, Metro Manila, January 18, 1994


ERNESTO D. ACOSTA
Presiding Judge


RAMON U. DE VEYRA
Associate Judge


MANUEL K. GRUBA
Associate Judge