

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

**COMMISSIONER OF CUSTOMS,
BUREAU OF CUSTOMS,**

Petitioner,

- versus -

**SAMAHAN NG MGA
KAPAMPANGAN SA SAN
ILDEFONSO MULTIPURPOSE
COOPERATIVE, SILI
MULTIPURPOSE COOPERATIVE
and GREEN VALLEY UNITED
COOPERATIVE,**

Respondents.

**CTA EB NO. 2668
(CTA Case No. 9383)**

Members:

**DEL ROSARIO, P.J
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
REYES-FAJARDO,
MODESTO-SAN PEDRO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, JJ.**

Promulgated:

JAN 12 2024

X-----X

DECISION

FERRER-FLORES, J.:

This Petition for Review¹ seeks the reversal of the Court of Tax Appeals (CTA) Third Division's Decision, dated December 7, 2021,² (assailed Decision) and CTA Special Third Division's Resolution, dated June 30, 2022,³ (assailed Resolution) filed pursuant to Section 4(b), Rule 8 of the Revised Rules of Court of Tax Appeals⁴ (RRCTA) in relation to Rule 43 of the Revised Rules of Court (RROC).

¹ Filed on August 18, 2022 through registered mail.

² *Rollo*, pp. 53-82.

³ *Rollo*, pp. 85-88.

⁴ **SEC. 4.** *Where to appeal; mode of appeal.* – (a) xxx.

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal.

THE PARTIES

Petitioner, **Commissioner of Customs (COC)**, is the head of the Bureau of Customs (BOC), the agency tasked with the prevention and suppression of smuggling and other customs fraud, supervision and control over the entrance and clearance of vessels engaged in foreign commerce, and the enforcement of the Customs Modernization and Tariff Act (CMTA) and its predecessor law, the Tariff and Customs Code of the Philippines (TCCP), as well as all other laws, rules, and regulations related to customs administration; represented herein by the Office of the Solicitor General as the BOC’s statutory counsel.⁵

Respondents, **Samahan ng mga Kapampangan sa San Ildefonso Multipurpose Cooperative (SKSIMC)**, **Sili Multipurpose Cooperative (SMC)** and **Green Valley Unified Cooperative (GVUC)**, are cooperatives registered with the Cooperative Development Authority of the Philippines.⁶

THE FACTS

The facts as narrated by the Court in Division⁷ are as follows:

Sometime in 2012, the National Food Authority ("NFA") launched its Private Sector-Financed ("PSF") Importation Program through the NFA Tax Expenditure Subsidy ("TES") (hereinafter referred to as the "2012 PSF-TES Program"). Pursuant to the 2012 PSF-TES Program, the NFA undertook to pay the customs duties of the rice allocations imported by qualified bidders.

Under the 2012 PSF-TES Program, the NFA conducted rice bidding to farmer cooperatives/organizations.

On 18 April 2012, the NFA issued Notices of Award to petitioners [herein respondents] notifying them that they are awarded the following import allocations under the 2012 PSF-TES Program, subject to the payment of a Service Fee, posting of a Performance Security, and entering into a contract within ten (10) calendar days from receipt of the Notice of Award as stated in the Instruction to Bidders (Item No. 19). The details of the awards are summarized below:

Recipient of Notice of Award	Import Allocation	Service Fee	Performance Security
SKSIMC	1,600 MT of rice	₱16,864,000.00	₱1,000 per MT
SMC	2,000 MT of rice	₱20,040,000.00	₱1,000 per MT
GVUC	1,600 MT of rice	₱16,416,000.00	₱1,000 per MT

As winning bidders, petitioners were also issued Notices to Proceed and Contracts for the 2012 PSF-TES Program of the NFA. Petitioners then

⁵ Paragraph 5, The Parties, Petition for Review, *Rollo*, pp. 12-13.
⁶ Paragraph 1, Facts, Amended Pre-Trial Order, Docket – Vol. 2, p. 658.
⁷ Court of Tax Appeals (CTA) Third Division.

proceeded to import a total of 94,000 bags of Vietnam rice. In compliance with the Instruction to Bidders, petitioners submitted importation documents to the NFA such as the bills of lading, commercial invoices, packing lists, certificates of origin, certificates of fumigation, phytosanitary certificates, and inspection certificates of quality, weight, and packaging of cargo.

Meanwhile, on 2 September 2012, the vessel M/V Minh Tuan 68, loaded with 94,000 bags of Vietnamese rice, arrived at the Port of Legazpi City.

On 5 September 2012, the Port Area Cargo Services wrote a letter to the Bureau of Customs, Port of Legazpi, requesting the cancelation of the Manifest as the petitioners decided to unload their cargo in the Port of Manila where they have a suitable warehouse to receive their cargo.

On 7 September 2012, the vessel was placed under Alert status pending verification of the requisite documents covering the importation of Vietnamese rice by the NFA.

On 11 September 2012, respondent BOC [**herein petitioner**] issued a Warrant of Seizure and Detention against M/V Minh Tuan 68 and the 94,000 bags of Vietnam rice.

To prevent deterioration, a public auction for the 94,000 bags of Vietnam rice was conducted in Legazpi fetching a price of ₱154,566,800.00.

In the Warrant of Seizure and Detention, dated 11 September 2012, respondent BOC recognized the NFA as consignee for the account ("FAO") of: Ugnayang Magbubukid ng San Isidro, Inc., Malipampang Concern Citizens Multipurpose Coop, Samahan ng Magsasakang Kapampangan ng Katagalogan Multipurpose Cooperative, Kapatirang Takusa Multipurpose Cooperative, and petitioner SMC.

Thus, on 8 October 2012, petitioners SKSIMC and GVUC filed a *Motion for Intervention* with respondent BOC at the Port of Legazpi.

On 17 October 2012, respondent BOC conducted a hearing for the seizure of the 94,000 bags of rice wherein petitioners testified that they are the true owners/consignees of the rice shipment.

Meanwhile, Ugnayang Magbubukid ng San Isidro, Inc., Malipampang Concerned Citizens Multipurpose Cooperative, Sili Multipurpose Cooperative, Samahan ng mga Magsasakang Kapampangan at Katagalogan Multipurpose Cooperative, and Kapatirang Takusa Multipurpose Cooperative, the cooperatives whose names appear in the contested bills of lading, also testified during the seizure proceeding hearing before the BOC where they denied ownership of the rice shipment.

On 20 November 2012, respondent BOC issued an *Order* denying petitioners' *Motion for Intervention*.

On 4 March 2013, Mr. Nestor Puangco, Division Chief of the Foreign Operations Division of the Grains Marketing and Operations Department of the NFA, testified during the seizure proceeding hearing.

The seizure case was submitted for resolution after the hearing on 4 March 2013.

Petitioners received a copy of the *Decision dated 27 January 2014* of the Collector of Customs of the Port of Legazpi and timely filed an appeal with respondent COC.

Thereafter, the COC rendered the assailed *Decision dated 4 December 2014* denying petitioners' appeal, the dispositive portion of which reads:

“**WHEREFORE**, the Order dated 27 January 2014 of the District Collector, Port of Legaspi is **AFFIRMED in toto**. Accordingly, the subject shipment of Ninety Four Thousand (94,000) bags Vietnam Rice and/or its equivalent amount of Php154,566,800.00 which is currently deposited in escrow as a result of the auction conducted on August 16, 2013 at the Port of Legaspi is hereby **FORFEITED** in favour of the government.

SO ORDERED.”

Petitioners timely filed a *Motion for Reconsideration* thereto which was denied in the assailed *Order dated 6 May 2016* the dispositive part of which reads:

“**WHEREFORE**, the Appellants' Motion for Reconsideration is **DENIED** for lack of merit, and the assailed Decision of the Commissioner of Customs dated 04 December 2014 is hereby **AFFIRMED in toto**.

SO ORDERED.”

Petitioners received the assailed *Order dated 6 May 2016* on 7 June 2016.

Thus, on 7 July 2016, petitioners filed the present Petition for Review. Summons was thereafter issued to respondent. After admitting respondent's Answer, the Court issued a Notice of Pre-Trial Conference on 26 May 2017.

In the meantime, on 20 June 2017, respondent BOC transmitted to the Court the complete BOC Records of the case consisting of one (1) folder with 612 pages, which the Court noted in its Resolution dated 6 July 2017.

Thereafter, petitioners filed their Pre-Trial Brief on 17 November 2017, while respondent filed its Pre-Trial Brief on 8 March 2018. Subsequently, on 24 July 2018, petitioners filed a Motion for Leave/Motion to Admit (Amended Pre-Trial Brief) with attached Amended Pre-Trial Brief. There being no objection from respondent, petitioners' Motion for Leave/Motion to Admit (Amended Pre-Trial Brief) was granted, and the subject Amended Pre-Trial Brief was admitted as part of the records of the case. Following the filing of both parties' Pre-Trial Briefs, the Pre-Trial Conference was held on 7 August 2018.

The parties submitted their Joint Stipulation of Facts and Issues ("JSFI") on 3 September 2018.

On 10 October 2018, petitioners filed a Motion to Amend (Joint Stipulation of Facts and Issues). In compliance with the Court's order to comment, respondent filed a Manifestation (In Lieu of Comment) deferring the resolution of petitioners' Motion to Amend to the Court's sound discretion. On 24 October 2018, respondent also filed a Motion to Amend (Joint Stipulation of Facts and Issues). Petitioners did not file their comment, notwithstanding the Court's order to comment on respondent's Motion to Amend. In the Court's Resolution dated 10 December 2018, both petitioners' and respondent's Motion to Amend (Joint Stipulation of Facts and Issues) were granted.

The Court issued a Pre-Trial Order on 19 December 2018. Subsequently, on 8 January 2019, petitioners filed a Motion to Correct and/or Amend Pre-Trial Order. Upon order of the Court, respondent filed a Manifestation (In Lieu of Comment) deferring resolution of the incident to the sound discretion of the Court. On 30 January 2019, the Court granted petitioners' Motion to Correct and/or Amend Pre-Trial Order. Thus on 19 February 2019, the Court issued an Amended Pre-Trial Order which governed the proceedings of the case.

During trial, petitioners presented the following witnesses:

- (1) Atty. Ramon G. Cuyco, former Director III of the Collection Service under the Revenue Collection and Monitoring Group of the Bureau of Customs, who testified and identified his Judicial Affidavit during the hearing on 23 May 2019;
- (2) Nestor U. Puangco, former Division Chief of the Foreign Operations Division of the Grains Marketing and Operations Department ("FOD-GMOD") of the NFA, who testified and identified his Judicial Affidavit during the hearing on 8 August 2019; and
- (3) Nguyen Thuy My Hoa, General Director of Nhuan Phat Trading Service and Transportation Co., Ltd., who testified and identified her Judicial Affidavit during the hearing on 8 August 2019.

Petitioners formally offered their documentary evidence on 23 August 2019. Respondent filed his Comment-Opposition on 6 September 2019. All of petitioners' formally offered documentary evidence were admitted except for Exhibits "P-12", "P-28", "P-43", "P-82", "P-83", and "P-84" for failure to identify, Exhibit "P-14" for not being found in the records of the case, Exhibits "P-29" and "P-44" for failure to identify and to submit the originals for comparison, and "P-88" for failure to present originals for comparison. The Court also noted certain discrepancies with Exhibits "P-2", "P-3", "P-4", "P-25", "P-31", "P-34", "P-49", "P-35", "P-42", "P-55", "P-76", and "P-88".

Meanwhile, respondent presented the following witnesses:

- (1) Rodolfo R. Merioles, Jr., former Special Agent I serving as Officer-in-Charge of the BOC's Enforcement and Security Service ("ESS") and

currently a Customs Operation Officer I at the BOC, who testified and identified his Judicial Affidavit during the hearing on 26 November 2019;

- (2) Minette M. Arcilla, former Boarding Officer and Acting Chief of the Port Operations Division and currently the Chief of the Administrative Division of the BOC of Port of Legazpi, who testified and identified her Judicial Affidavit during the hearing on 21 January 2020; and
- (3) Atty. Christopher M. Inducil, Acting Chief of the Valuation and Classification Division at the Imports and Assessment Service ("IAS") of the Assessment and Operations Coordinating Group ("AOCG") of the Bureau of Customs ("BOC"), who testified and identified his Judicial Affidavit during the hearing on 18 February 2020.

Respondent formally offered his documentary evidence on 3 March 2020. Petitioners filed their Comment thereto on 5 June 2020. On 10 June 2020, respondent filed through registered a Reply to petitioners' Comment. The Court admitted all of respondent's formally offered documentary evidence, noting certain discrepancies with Exhibits "R-8", "R-14", "R-23", "R-26", "R-31", "R-15", "R-28", "R-36", "R-35", "R-44", and "R-44-a".

As directed by the Court, petitioners and respondent filed their Memoranda on 14 August 2020 86 and 3 November 2020, respectively. (Citations omitted)

On December 7, 2021, the CTA Third Division rendered the assailed Decision in favor of the respondents, the dispositive portion of which reads as follows:

WHEREFORE, in light of the foregoing considerations, the Petition for Review filed by petitioners is hereby **GRANTED**. The Decisions, dated 4 December 2014 and 6 May 2016, which affirmed the Order, dated 27 January 2014, of the District Collector of the Port of Legaspi are hereby **REVERSED AND SET ASIDE**. Accordingly, respondent [**herein petitioner**] is ordered to release to petitioners [**herein respondents**] the amount held in escrow in the total amount of One Hundred Fifty-Four Million Five Hundred Sixty-Six Thousand and Eight Hundred Pesos (₱154,566,800.00) representing the value of the 94,000 bags of seized and auctioned Vietnam rice.

SO ORDERED.

Unsatisfied, petitioner filed his *Motion for Reconsideration* on March 3, 2022, through registered mail and received by the CTA Special Third Division on March 15, 2022, but was denied in its *Resolution* dated June 30, 2022, to wit:

WHEREFORE, premises considered, respondent's **Motion for Reconsideration (Re: Decision dated 7 December 2021)**, is hereby **DENIED** for lack of merit.

SO ORDERED.

Still unconvinced, petitioner filed a *Motion for Extension of Time to File Petition for Review* posted on August 2, 2022,⁸ which was received by the Court *En Banc* on August 11, 2022, requesting for additional period of fifteen (15) days, reckoned from August 3, 2022 or until August 18, 2022, to file its Petition for Review. In the Minute Resolution, dated August 12, 2022, the Court *En Banc* granted the motion.⁹

On August 18, 2022, the instant Petition for Review was filed through registered mail and received by the Court *En Banc* on August 31, 2022.¹⁰

In the Resolution, dated October 20, 2022,¹¹ respondents were ordered to file their Comment on the Petition for Review which they filed on November 3, 2022.¹²

On January 12, 2023, this case was submitted for decision.¹³

THE ISSUES

Petitioner assigned the following errors in the assailed Decision and Resolution:

I.

WHETHER THE HONORABLE DIVISION ERRED IN HOLDING THAT RESPONDENTS, PARTICULARLY SKSIMC AND GVUC, WERE NOT ACCORDED THEIR DUE PROCESS RIGHT IN SEIZURE IDENTIFICATION (S.I.) NO. 01-2012-LEG.

II.

WHETHER THE HONORABLE DIVISION ERRED IN FINDING THAT RESPONDENTS POSSESSED THE AUTHORITY TO IMPORT THE SUBJECT RICE SHIPMENT.

⁸ Through registered mail.

⁹ *Rollo*, p. 10.

¹⁰ *Rollo*, pp. 11-47.

¹¹ *Rollo*, p. 93.

¹² *Rollo*, pp. 95-111.

¹³ Resolution dated January 12, 2023, *Rollo*, p. 263.

III.

WHETHER THE HONORABLE DIVISION ERRED IN DETERMINING THAT RESPONDENTS WERE ABLE TO CONCLUSIVELY PROVE “HONEST MISTAKE” IN THE IMPORTATION OF THE SUBJECT RICE SHIPMENT.

IV.

WHETHER THE HONORABLE DIVISION ERRED IN NOT FINDING THAT THE FINALITY OF THE JUDGMENTS IN *PEOPLE vs. UGNAYANG MAGBUBUKID NG SAN ISIDRO, INC. AND PEOPLE vs. MAXIMO HERNANDEZ, et al.* OPERATE *AS RES JUDICATA* WITH REGARD TO THE MATTER OF WHETHER THE SUBJECT RICE SHIPMENT HAS BEEN LEGALLY IMPORTED TO THE PHILIPPINES.

RULING OF THE COURT

Timeliness of the Petition for Review

Before proceeding to the merits of the arguments of the parties, the Court *En Banc* deems it necessary to delve on the timeliness of the instant Petition for Review.

Records show that, on February 16, 2022, petitioner received a copy of the assailed Decision of CTA Third Division to which petitioner timely filed his *Motion for Reconsideration* on March 3, 2022.

On June 30, 2022, the CTA Special Third Division issued the assailed Resolution denying petitioner's motion which was received by the latter on July 19, 2022. Consequently, petitioner had fifteen (15) days from such receipt, or until August 3, 2022, within which to file a petition for review before the CTA *En Banc*.

On August 2, 2022, petitioner filed a *Motion for Extension of Time to File Petition for Review* seeking additional period of fifteen (15) days, or until August 18, 2022, within which to file his petition. The said motion was granted by the Court *En Banc* in the Minute Resolution dated August 12, 2022. Clearly, this Petition for Review was timely filed on August 18, 2022.

We shall now proceed to the merits of the instant Petition for Review.

A careful review of the arguments raised by the parties in the Petition for Review and the Comment/Opposition shows that they are mere rehash of the arguments in their previous pleadings which have been thoroughly discussed and passed upon in the assailed Decision and Resolution. Nonetheless, the Court *En Banc* shall revisit petitioner's arguments and elucidate the conclusions of the Court in Division.

We will discuss the petitioner's assignment of errors in *seriatim*.

**SKSIMC and GVUC were not
accorded due process right in
S.I. No. 01-2012-LEG.**

Petitioner points out that the court *a quo* erred in rendering invalid the proceedings in S.I. No. 01-2012-LEG.

Petitioner disagrees with the finding of Court in Division that the two (2) requirements for the valid exercise of the right to intervene, *i.e.*, legal interest and lack of prejudice to the other parties, were present, thereby making the ruling of the Collector of Legazpi denying the respondents' Motion to Intervene a "due process defect".

Petitioner avers that intervention is not a matter of right, but is left to the sound discretion of the court, tribunal, or body concerned.¹⁴ The Collector of Customs-Legazpi believes that SKSIMC and GVUC failed to adduce sufficient documents to grant the motion. The respondents SKSIMC and GVUC mere claim as the ultimate consignees of the subject 94,000 bags of Vietnamese rice is not sufficient to justify the intervention. Respondents SKSIMC and GVUC must present import authorities to justify their intervention.

This Court does not agree.

Intervention is a remedy by which a third party, who is not originally impleaded in a proceeding, becomes a litigant for purposes of protecting his or her right or interest that may be affected by the proceedings.¹⁵ This Court is not unaware that intervention is not an absolute right. Intervention, however, may be granted by the Court when the movant shows facts which satisfy the requirements of the statute authorizing intervention.¹⁶

¹⁴ *Ongco vs. Dalisay*, G.R. No. 190810, July 18, 2012.

¹⁵ *Neptune Metal Scrap Recycling, Inc. vs. Manila Electric Company and The People of the Philippines*, G.R. No. 204222, July 4, 2016.

¹⁶ *Executive Secretary v. Northeast Freight Forwarders, Inc.*, G.R. No. 179516, March 17, 2009

Section 1, Rule 19 of the RROC provides:

SECTION 1. *Who may intervene.* — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

In the case of *Republic of the Philippines vs. Ria S. Rubin*,¹⁷ the Supreme Court pronounced the elements for the allowance of intervention, as follows:

In sum, to allow intervention, (a) it must be shown that the movant has legal interest in the matter in litigation, or is otherwise qualified; and (b) consideration must be given as to whether the adjudication of the rights of the original parties may be delayed or prejudiced, or whether the intervenor's rights may be protected in a separate proceeding or not. Both requirements must concur, as the first is not more important than the second.

In *Cariño vs. Ofilada*,¹⁸⁷ the Supreme Court defines "legal interest" in this manner:

The interest contemplated by law must be actual and material, direct and immediate, and not simply contingent or expectant; it must be in the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment. The words 'an interest in the subject' means a direct interest in the cause of action as pleaded, and which would put the intervenor in the legal position to litigate a fact averred in the complaint, without the establishment of which plaintiff could not recover.

This Court holds that respondents SKSIMC and GVUC have legal interest in the subject matter of litigation in S.I. No. 01-2012-LEG. Their legal interest is manifested by the fact that they will stand to gain or lose by the direct legal operation and effect of the judgment over the 94,000 bags of Vietnamese rice, the subject matter of the seizure proceedings in S.I. No. 01-2012-LEG, which respondents claimed to be the real owners thereof. Respondents SKSIMC and GVUC should have been given the opportunity, in the same seizure proceeding, to adduce evidence to prove their ownership; otherwise, they could not recover.

¹⁷ G.R. No. 213960, October 7, 2020.

¹⁸ G.R. No. 102836, January 18, 1993.

Similarly, the second element of intervention is present in this case, *i.e.*, consideration must be given as to whether the adjudication of the rights of the original parties may be delayed or prejudiced, or whether the intervenor's rights may be protected in a separate proceeding or not.

Records show that there were two (2) sets of bills of lading. The first set of bills of lading was presented by the crew of the vessel when the BOC team commenced boarding formalities.¹⁹ The first set was composed of five (5) bills of lading²⁰ showing the National Food Authority (NFA), as the consignee, for the account of the following cooperatives:

1. Kapatirang Takusa Multipurpose Cooperative (KTMC);
2. Ugnayang Magbubukid ng San Isidro Inc. (UMSII);
3. Malipampang Concerned Citizens Multipurpose Cooperative (MCCMC);
4. Samahan ng Magsasakang Kapampangan at Katagalugan Multipurpose Cooperative (MKKMPC); and,
5. SMC, one of the herein respondents.

The second set was composed of three (3) bills of lading,²¹ likewise, showing NFA, as the consignee, for the account of herein respondents, SKSIMC, GVUC, and SMC.

For failure to present the required documents, specifically the import authorities/permits, a seizure proceeding was instituted against the vessel MV Minh Tuan 68 and its cargo docketed as S.I. No. 01-2012-LEG for violation of Section 2530(a) and (f) of the TCCP.²²

During one of the hearings for S.I. No. 01-2012-LEG held on October 17, 2012,²³ four (4) out of five (5) cooperatives in the first set of bills of lading categorically denied ownership of the shipment. On the other hand, the three (3) cooperatives (herein respondents) in the second set of bills of lading moved to intervene in the proceeding, claiming that they were the real owners of the cargo.

The three (3) cooperative-intervenors, herein respondents [SKSIMC, GVUC, and SMC] through their counsel, manifested that there was an error in the first set of bills of lading committed by the forwarder. They then asserted their ownership over the rice shipment while the four (4) cooperatives

¹⁹ *Rollo*, pp. 14-15.

²⁰ Exhibits "R-12" to "R-16".

²¹ Exhibits "P-15", "P-31", and "P-46", BOC Records, pp. 13, 22, and 31.

²² *Rollo*, p. 17.

²³ Exhibit "P-63", BOC Records, pp. 223-228.

[KTMC, UMSII, MCCMC, MKKMPC] in the first set of bills of lading denied ownership thereof, to quote:

ATTY. PALOMAR:

Basically, **there was an error in behalf of the forwarder**. So, the listing of the Cooperatives ah, well, made a mistake and the true Consignees based on an amended BL are the three (3) Cooperatives which we listed as Intervenor. So, it's the Sili Multipurpose Cooperative, Samahan ng mga Kapampangan Ildefonso Multipurpose Cooperative and the Green Valley United Cooperative. Now, this ah. . .

HEARING OFFICER:

Wait, wait. You are saying that the Interveners (sic) are the real owners of all shipments?

ATTY. PALOMAR:

Yes, yes and as early as September 5, Notice was sent to the NFA regarding the BL of these three (3) Cooperatives and the other four (4) Consignees never sent any communication to the NFA regarding ownership.

HEARING OFFICER:

I just would like to ask the Consignees here. Other than ah, well purportedly Sili Multipurpose Cooperative, Green Valley United Cooperative and Samahan ng Kapampangan na walang Tagalog, ha? Hindi sa inyo itong shipment na ito?

ATTY. VILLAR:

Can we ask them one by one, Your Honor so we can. . .

HEARING OFFICER:

Sige, sige.

ATTY. VILLAR:

Let's begin with Ugnayan Magbubukid.

HEARING OFFICER:

Q: Sainyo po ba itong shipment na ito

EMILY G. ALAABADO:

A: Hindi po.

HEARING OFFICER:

So there is a categorical denial from the representative of Ugnayan Magbubukid ng San Isidro, that part of the shipment is theirs. She denied it outright.



ATTY. PALOMAR:

In view of the denial I am withdrawing my appearance in behalf of.
..

HEARING OFFICER:

So in line of this denial you are withdrawing your appearance?

ATTY. PALOMAR:

Hindi ako Ugnayan Magbubukid.

HEARING OFFICER:

Okay, No. 2. Malipampang Concerned Citizens Multipurpose?

CRISANTA G. REYES:

A: Hindi po.

HEARING OFFICER:

Q: So, you are likewise denying the shipment?

A: Opo, Sir.

HEARING OFFICER:

Well, Sili obviously is ah representative of Sili Multipurpose, do you admit na sainyo ang shipment na to?

EMILIO MENDOZA:

A: Opo, Sir.

Q: Samahan ng Magsasakang Kapampangan at Katagalogan?

Ina-admit ninyo po ba o deni-deny ninyo ang shipment na ito?

MAXIMO M. HERNANDEZ:

A: Hindi po.

Q: Iyung Kapatiran Takusa Multipurpose Cooperative? Ina-admit ninyo ba o deni-deny na sa kanila yung part of the shipment?

JUANITO DAVID:

A: Hindi po.

xxx

xxx

xxx

HEARING OFFICER:

Then, well for record purposes yung Green Valley United Cooperative present sila dipo ba?



ATTY. PALOMAR:

Yes, Your Honor.

HEARING OFFICER:

So, yung Green Valley United Cooperative at yung Samahang Ng Mga Kapampangan sa San Ildefonso, without Katagalugan, (sic) ha?

MEDEL A. DELOS REYES:

Opo, Sir.

Q: Ina-admit ninyo na sainyo itong shipment na ito?

A: Opo, Sir.

HEARING OFFICER:

So, there are three (3) Cooperatives who admit to the ownership of this shipment, Prosecutor?

ATTY. VILLAR:

Your Honor, considering the denial of that Consignees I request that they be put under oath for future references. The denial be put under oath.

HEARING OFFICER:

Mag-oath kayo dito sa Stenographer. Let their respective Officers/Representatives of the Consignees who denied the ownership of the shipment of the rice be put under oath. (Emphasis supplied)

Applying the above facts to the second element of intervention, the four (4) cooperatives, KTMC, UMSII, MCCMC, and MKKMPC, in the first set of bills of lading will no longer be affected by the delay or be prejudiced by the outcome of the case as they categorically denied ownership of the rice shipment. As regards respondents SKSIMC and GVUC, as intervenors therein, there can be no other separate proceeding wherein they can assert their right because their cause of action pertains to the very subject of the seizure proceeding, the rice cargo. Lamentably, respondents SKSIMC and GVUC were not given the opportunity to intervene by the Collector of Customs-Legazpi. We note that SMC was no longer allowed intervention because it was already one of the original parties in the seizure case having been included in the first set of bills of lading.

Be that as it may, we hold that such denial of intervention of the Collector of Customs-Legazpi is tantamount to denial of respondents SKSIMC and GVUC's due process right, that is, the right to a hearing and to

present evidence in support of their case. We, thus, affirm the ruling of the court *a quo* in nullifying the proceeding in S.I. No. 01-2012-LEG.

**Respondents have import authorities
for the subject rice shipment.**

Petitioner maintains that respondents failed to establish legal authority to import rice which in effect makes the subject rice shipment illegal.

Petitioner insists that presentation of Import Authorities (or Permits) is required for all rice importations before the same are cleared and released from customs custody pursuant to Memorandum of Agreement between the NFA and the BOC as implemented by Customs Memorandum Order (CMO) No. 20-2001²⁴ and Customs Administrative Order (CAO) No. 2-2017 or the Implementing Rules and Regulations of Republic Act (R.A.) No. 10845.²⁵

Petitioner argues that the shipping documents proffered by respondents, which were found by the Court in Division as sufficient proof of lawful importation, do not fall within the definition of Import Permit under Item 3.6 of CAO No. 2-2017, as follows:

3.6. Import Permit – refers to a written certificate issued by the concerned authority stating the volume of consignment. This includes the minimum access volume (MAV) import certificate, Sanitary and Phytosanitary (SPS) Import Clearance, Clearance for the Release of Imported Sugar **or any other equivalent document issued for the importation of Agricultural Products.** (Boldfacing supplied)

Petitioner interprets the phrase “*any other equivalent document*” in the definition of import permit as limited in scope to those listed before it which only pertain to “*MAVIC, SPS, and Clearance for Release of Imported Sugar, to the exclusion of all others*”.

We find the argument of petitioner untenable.

A reading of CAO No. 2-2017 will immediately tell us that the same is not applicable to the instant case. The same was issued in 2017 while the coverage of the importation at bar is for 2012; hence, we find CAO No. 2-2017 inapplicable to the case at bar.

²⁴ <https://customs.gov.ph/wp-content/uploads/2023/01/CMO-20-2001.pdf>, visited on October 19, 2023 at 5:26 p.m.

²⁵ AN ACT DECLARING LARGE-SCALE AGRICULTURAL SMUGGLING AS ECONOMIC SABOTAGE, PRESCRIBING PENALTIES THEREFOR AND FOR OTHER PURPOSES. Otherwise known as Anti-Agricultural Smuggling Act of 2016.

On the other hand, we find the application of the court *a quo* of CMO No. 20-2001 in order.

Item 4.1 of CMO No. 20-2001 provides:

- 4.1. Immediately upon arrival of rice imported into the country, the District Collector of the Port of Entry or any **responsible customs official therein shall demand from the importer/consignee/carrier an Import Authority for said rice.** Import Authority shall specify the following:
1. volume of rice
 2. type and brand
 3. country source and supplier in that country
 4. importer/consignee
 5. carrying vessel (Boldfacing supplied)

Based on the above issuance, respondents must present their Import Authority to the District Collector, upon demand, specifying certain information. This requirement is bolstered in Item 3.1 of CMO No. 20-2001, to wit:

- 3.1. **All shipments of rice imported into the country shall be covered by an Import Authority from the National Food Authority** and the same shall be entered and discharged only in a District Port and not in any sub port or private wharf. (Boldfacing supplied)

In effect, we agree with petitioner in requiring respondents to present import authority.

The only difference in the present importation is that the importation was coursed through the public bidding under the National Food Authority Private Sector-Financed Importation Program through Tax Expenditure Subsidy (NFA PSF-TES); thus, it is befitting to elucidate the NFA PSF-TES program to shed light on this pressing issue.

This was explained by then Senator Juan Ponce Enrile in the Senate Report entitled *Privilege Speech of Senate President Juan Ponce Enrile on the Rice Smuggling at the Subic Bay Freeport Zone, delivered last 25 July 2012; the Rice Shipment at the Port of Legazpi; and the National Food Authority (NFA) Private Sector Financed Importation Program and the Minimum Access Volume - Country Specific Quota Program*,²⁶ as follows:

²⁶ <https://legacy.senate.gov.ph/lisdata/15230128901.pdf>. Visited on October 20, 2023 at 3:34 p.m.

1. THE NFA PRIVATE SECTOR FINANCED IMPORTATION PROGRAM THRU THE TAX EXPENDITURE SUBSIDY (PSF - TES)

The NFA Private Sector Financed Importation Program was formulated and adopted by the National Food Authority Council to tap and allow private entities, farmers organizations and cooperatives to participate in the importation of rice. This Program was intended to make use of their financial resources and logistics inasmuch as the NFA is presently saddled with debts. Moreover, the Program aimed to provide additional income to farmers organizations and cooperatives as well as their members.

To implement the Program, the NFA will bid out all or portion of the total volume of projected rice shortage to licensed importers. In the bidding and awarding of import allocation, the NFA imposes a minimum floor price for every kilogram or metric ton as service fee. The NFA, in turn, will issue a Memorandum of Undertaking where it promises to pay the required customs duties to be funded from the Tax Expenditure Subsidy appropriation of the NFA in the General Appropriations Act.

Thus, this Program is commonly called: NFA Private Sector Financed Importation Program Thru the Tax Expenditure Subsidy (PSF - TES).

For 2012, the NFA decided that the 500,000 metric tons of rice to be imported shall be imported by the following: (a) To be directly imported by NFA - 120,000 metric tons; (b) Open Portion - 190,000 metric tons; and (c) Farmers Organizations and Cooperatives - 190,000 metric tons.

In the Open Portion category, corporations, single proprietorships, partnerships, and farmers cooperatives can bid for a maximum import allocation of 10,000 metric tons. While in the Farmers Organizations and Cooperatives Portion category, they can bid up to a maximum of 2,000 metric tons.

Biddings conducted by the NFA Special Bids and Awards Committee resulted in the awarding of 10,000 metric tons import allocation each to 19 single proprietorships and cooperatives, and the awarding of 1,400 metric tons to 2,000 metric tons to 105 farmers organizations and cooperatives.

Based on the foregoing, NFA decided to import rice in the year 2012 for 500,000 metric tons of rice. NFA then formulated and adopted the NFA PSF-TES program in order to tap and allow private entities, farmers organizations, and cooperatives **to participate in the importation of rice.** The program was designed to make use of the private sectors' financial resources and logistics inasmuch as the NFA, during the said year, had a liquidity issue. The program was implemented through public bidding; and, respondents were among those awarded of the contracts for the rice importation.

Records show that petitioner does not question the authority of the NFA to import rice since this authority is subsumed under its powers and functions pursuant to Section 7(c) of Presidential Decree No. 1770,²⁷ to quote:

Section 7. Additional Powers, Functions and Exemptions. In addition to the powers, functions and exemptions of the Authority under P.D. No. 4, as amended, the Authority shall have the following powers, functions and exemptions:

- (a) xxx
- (b) xxx
- (c) To import/export or cause the importation/exportation of food products/commodities and/or raw materials, equipment and facilities needed in the manufacture/processing of food commodities as may be determined by the Council, and as approved by the President of the Philippines.

What petitioner is questioning is the respondents' lack of authority to import rice based on CMO No. 20-2001.

Upon scrutiny of the documents presented, we strongly believe that respondents were authorized by NFA to import the 94,000 bags of Vietnamese rice.

It is not amiss to state that the present rice importation arose from the public bidding conducted in the first quarter of 2012, wherein the respondents were among the farmer-cooperatives that were awarded contracts under the NFA PSF-TES Program, as follows:

Notice of Award	Import Allocation	Exhibit
SKSIMC	1,600 MT of rice	P-11 ²⁸
SMC	2,000 MT of rice	P-42 ²⁹
GVUC	1,600 MT of rice	P-27 ³⁰

An examination of the bidding documents will show that the authority to import rice can be deduced from the respective Notices to Proceed issued to respondents by NFA Administrator Angelito T. Banayo advising them that “*you may now proceed to import...rice*”, relevant portions of which read:

²⁷ RECONSTITUTING THE NATIONAL GRAINS AUTHORITY TO THE NATIONAL FOOD AUTHORITY, BROADENING ITS FUNCTIONS AND POWERS AND FOR OTHER PURPOSES.
²⁸ BOC Records, p. 5.
²⁹ BOC Records, p. 7.
³⁰ BOC Records, p. 3.

24 April 2012³¹

Mr. ELPIDIO B. MENDOZA
Chairman
Sili Multipurpose Cooperative
Sili, Naguilan, La Union

SUBJECT : NOTICE TO PROCEED

Dear Mr. Mendoza,

In connection with the Notice of Award dated 18 April 2012 issued in favor of your company and considering that you have posted the necessary performance security and the corresponding contract signed, we are pleased to inform you that **you may now proceed to import under the Private Sector-Financed (PSF) Importation Program through the National Food Authority Tax Expenditure Subsidy (TES), Two Thousand (2,000 MT) Metric Tons of rice.**

Arrival date shall be in accordance with Instruction No. 1.5 of the Instructions to Bidders published on 19 March 2012.

Truly yours,

(signed)
ANGELITO T. BANAYO
Administrator

xxx

24 April 2012³²

Mr. MEDEL A. DELOS REYES
Chairman
Green Valley United Cooperative
Natividad, Naguilan, La Union

SUBJECT : NOTICE TO PROCEED

Dear Mr. Delos Reyes,

In connection with the Notice of Award dated 18 April 2012 issued in favor of your company and considering that you have posted the necessary performance security and the corresponding contract signed, we are pleased to inform you that **you may now proceed to import under the Private Sector-Financed (PSF) Importation Program through the National Food Authority Tax Expenditure Subsidy (TES), One Thousand Six Hundred (1,600 MT) Metric Tons of rice.**

Arrival date shall be in accordance with Instruction No. 1.5 of the Instructions to Bidders published on 19 March 2012.

³¹ Exhibit "P=43", BOC Records, p. 9.

³² Exhibit "P-12", BOC Records, p. 10.

Truly yours,

(signed)
ANGELITO T. BANAYO
Administrator

xxx

24 April 2012³³

Ms. LUZVIMINDA P. MANALASTAS
Vice-Chairman
Samahan ng mga Kapampangan Sa San Ildefonso Multipurpose Cooperative
Anayatam, San Ildefonso, Bulacan

SUBJECT : NOTICE TO PROCEED

Dear Ms. Manalastas,

In connection with the Notice of Award dated 18 April 2012 issued in favor of your company and considering that you have posted the necessary performance security and the corresponding contract signed, we are pleased to inform you that **you may now proceed to import under the Private Sector-Financed (PSF) Importation Program through the National Food Authority Tax Expenditure Subsidy (TES), One Thousand Six Hundred (1,600 MT) Metric Tons of rice.**

Arrival date shall be in accordance with Instruction No. 1.5 of the Instructions to Bidders published on 19 March 2012.

Truly yours,

(signed)
ANGELITO T. BANAYO
Administrator

The fact that respondents were already directed by the NFA Administrator Banayo to “*proceed to import...rice*”, we hold that the same is equivalent to import authority required under the afore-quoted Item 3.1 of CMO No. 20-2001.

Moreover, as found by the Court in Division, the shipping documents presented by respondents substantially comply with the information required under Item 4.1 of CMO No. 20-2001, viz:

³³ Exhibit “P-12”, BOC Records, p. 11.

	SKSIMC ³⁴	SMC ³⁵	GVUC ³⁶
Volume of Rice	32,000 bags; 1,600MT	30,000 bags; 1,500MT	32,000 bags; 1,600MT
Type and Brand	Vietnamese Long Grain White Rice 5% Broken; Vietnamese Long Grain White Rice 10% Broken	Vietnamese Long Grain White Rice 10% Broken; Vietnamese Long Grain White Rice 15% Broken; Vietnamese Long Grain White Rice 25% Broken	Vietnamese Long Grain White Rice 5% Broken; Vietnamese Long Grain White Rice 25% Broken
Country Source and Supplies in that Country	Vietnam; Vietnam Southern Food Corporation	Vietnam; Vietnam Southern Food Corporation	Vietnam; Vietnam Southern Food Corporation
Importer/Consignee	NFA FAO SKSIMC	NFA FAO SMC	NFA FAO GVUC
Carrying Vessel	M/V Minh Tuan 68	M/V Minh Tuan 68	M/V Minh Tuan 68

Significantly, there can be no logical conclusion other than to state that the importation was sanctioned by law.

**Respondents were able to prove
“honest mistake” in the importation
of the subject rice shipment.**

Petitioner questions the pronouncement of the court *a quo* in finding merit in the respondents’ claim of “honest mistake” of the shipping agent, Ms. Nguyen Thuy My Hoa, in the preparation of bills of lading supporting the rice importation. Petitioner, likewise, opposes the application of the *Republic vs. Court of Tax Appeals et al. (Republic case)*,³⁷ which allegedly is not in all fours with the case at bar. Petitioner avers that in the *Republic case*, the problem was only with the name of the proper consignee; however, in instant case, the five (5) bills of lading found in MV Minh Tuan 68 and the three (3) belatedly presented bills of lading were so substantial that they merit a hard look.

Petitioner misses the point.

The Court in Division, in adopting the *Republic case*, would like to emphasize that a mistake in the issuance of a bill of lading may happen and the true consignee

³⁴ Exhibits "P-15", "P-16", "P-17", "P-20", "P-19", "P-18", and "P-21", BOC Records, pp. 22-29.

³⁵ Exhibits "P-46", "P-47", "P-48", "P-49", "P-50", "P-51", and "P-52", *Id.*, pp. 31-39.

³⁶ Exhibits "P-31", "P-32", "P-33", "P-34", "P-35", "P-36", and "P-37", *Id.*, pp. 13-20.

³⁷ G.R. No. 139050, October 2, 2001.

may assert its right when another consignee was erroneously placed as owner of the shipment. Said the court *a quo*:

The factual milieu of the instant case is similar to that of *Republic v. Commissioner (sic) of Tax Appeals*, where the erroneous naming of the consignee in the bill of lading and Inward Foreign Manifest led to the forfeiture of imported goods. In the said case, the true consignee undertook remedial measures to amend the name of the consignee in the Bill of Lading and Inward Foreign Manifest when the shipper made the mistake. In affirming the findings of the Court of Tax Appeals and the Court of Appeals that the mistake was unintentional, the Supreme Court held:

“The requisites for the forfeiture of goods under Section 2530(f), in relation to (1) (3-5), of the Tariff and Customs Code are: (a) the wrongful making by the owner, importer, exporter or consignee of any declaration or affidavit, or the wrongful making or delivery by the same person of any invoice, letter or paper — all touching on the importation or exportation of merchandise; (b) the falsity of such declaration, affidavit, invoice, letter or paper; and (c) an intention on the part of the importer/consignee to evade the payment of the duties due.

xxx xxx xxx

Fraud must be proved to justify forfeiture. It must be actual, amounting to intentional wrong-doing with the clear purpose of avoiding the tax. Forfeiture is not favored in law nor in equity. Mere negligence is not equivalent to the fraud contemplated by law. What is here involved is an honest mistake, not even directly attributable to private respondent, which will not deprive the government of its right to collect the proper tax. The conclusion of the appellate court, being consistent with the evidence on record and not contrary to law and jurisprudence, hardly can be overturned by this Court.

Likewise, we adopt with approval the finding of the court *a quo* when it disposed of the issue of mistake on the part of the shipping agent and how the latter corrected the mistake; viz:

In the Judicial Affidavit of Nguyen Thuy My Hoa, the agent who prepared the bills of lading, she thoroughly explained how the errors were made with respect to the names of the consignees and port of destination:

- Q9: Why are you familiar with this particular shipment?
- A9: I personally arranged the shipping documents and the dispatch of this Shipment. I also reviewed and collated all shipping documents for this Shipment.

Most importantly, I remember this particular shipment because our company, Nhuan Phat, made errors in the

names of the consignees and port of discharge indicated in the shipping documents.

Q10: How did you find out these errors?

A10: When our office was collating shipping documents for another rice shipment intended for another group of consignees in the Philippines, I noticed that the rice inventory in the warehouse do not tally with the amount indicated in the shipping documents.

I reviewed the documents again. That is when I discovered that our office made errors in the names of the consignees indicated in the earlier set of shipping documents and also in the port of discharge. Unfortunately, the vessel carrying the rice with erroneous shipping documents has already departed Vietnam and was on its way to the Philippines.

Q11: What caused the errors?

A11: I remember that there was bad weather at that time. The shipment was already delayed and our office was in a rush to complete the shipping documents in order to dispatch the vessel at the soonest possible time.

xxx xxx xxx

Q13: You mentioned that there were errors in the names of the consignees. What should have been the names of the correct consignees of the shipment?

A13: They are: Samahan ng mga Kapampangan sa San Ildefonso Multipurpose Cooperative, Green Valley United Cooperative, and Sili Multipurpose Cooperative.

Q14: You also mentioned of an error in the port of discharge. So what should have been the correct port of discharge?

A14: It should have been Manila Harbour and not Legazpi.

xxx xxx xxx

Q18: How did you send copies of the correct documents?

A18: I sent them by email.

Q19: What else did you do, if any?

A19: I also requested the assistance of the shipping agent in Vietnam, Nam Long Shipping & Chartering, Co., Inc. Ltd. to inform the shipowner, the ship captain, and the Philippine local shipping agent of our mistake.

During her cross-examination, she further explained the errors she committed were due to the mix up of issuance from client to client as she was catching the deadline in view of the impending bad weather:

ASSOC. SOL. CEBRIAN

Q: With regard to the subject shipping documents here, you prepared the shipping documents pertinent to the rice shipped aboard MV Minh Tuan 68, in 2012 you prepared the documents yourself?

MS. NGUYEN THUY MY HOA

A: Yes, sir.

ASSOC. SOL. CEBRIAN

Q: You were saying here that you found out that there were errors in particular, Ms. Witness, how exactly, what lead to your finding out that there were apparently errors in the shipping documents already sent aboard the ship?

MS. NGUYEN THUY MY HOA

A: That is true we issued another document to the wrong one because at that time, so many rice shipments to catch up for the deadline. The problem, sir is we have several clients, everything the same, it is like one supplier, they are selling to several clients to the Philippines . . . so meaning, like at that time, we mixed up issuance from this client to another client, something like this.

ASSOC. SOL. CEBRIAN

Q: So you were also saying that not only was there a lot of . . . you also attributed the error to there being a bad weather at that time, I am referring to pages 4 to 5 of your judicial affidavit, questions 10 to 12, so you said here that there was a bad weather, the shipment was already delayed to begin with to the subject shipment and you were rushing to meet demands but various shipping orders if you will so this has happened in your line of business, I mean how often does this kind of error happen, that you mentioned earlier that there was a mix (sic) up, am I correct?

MS. NGUYEN THUY MY HOA

A: Yes, that is a correct information, we mixed up and at that time like most of like even the owner because our company, doing by vessel and doing by container too, so we have a lot of shipments like we can issue like for daily about a hundred bills (sic) of lading. So, meaning

at that time, we have a big mistake like this and the problem is the supplier did not find that out too at the date that the vessel . . . we did not find out until after a few days, because one of my suppliers because of another route, we issued a wrong consignee to them, so they found out and after that I reviewed the document and I found out that it is a mistake already, that is why we made a new document. (sic)

ASSOC. SOL. CEBRIAN

Q: Does this error happen a lot?

MS. NGUYEN THUY MY HOA

A: Yes and very easy because like for example, we issued for another shipment not rice to Philippines when the consignee like ABC Company, they buy the shipment we just look the consignee like the ABC on the consignee but for the rice to Philippines, all of the rice, they showed that NFA or FAO for account of something like this and honestly, my staff and even me, we also do not know why like this because we just like the one to submit the document from the requesting from the supplier, so we do not understand why they, the NFA and FAO to another account, all on the rice shipment just different from the FAO so that is why very easy for my staff and even me to make the mistake. (sic) (Emphasis, Ours)

Petitioner then submitted in evidence the corrected shipping documents as submitted to the NFA pursuant to the Instruction to Bidders. The shipping documents are summarized below:

	SKSIMC	SMC	GVUC
Bill of Lading	'P-15'	'P-4'	'P-31'
Commercial Invoice	'P-16'	'P-47'	'P-32'
Packing List	'P-17'	'P-48'	'P-33'
Certificate of Origin	'P-18'	'P-49'	'P-34'
Certificate of Fumigation	'P-19'	'P-50'	'P-35'
Phytosanitary Certificate	'P-20'	'P-51'	'P-36'
Inspection Certificate of Quality, Weight and Packaging of Cargo	'P-21'	'P-52'	'P-37'

The foregoing also explains the discrepancy in the original Bill of Lading for SMC, which states that its share is 16,000 bags of rice, whereas in the amended Bill of Lading, it is 30,000 bags of rice. According to foregoing testimony of the agent and evidence presented, the mistake arose from the mixing up of clients handled by the agent.

It appears, therefore, that during the entry of the shipment in the port of Legazpi, MV Minh Tuan 68 had in its possession the wrong bills of lading given by the shipping agent; and, upon knowledge of mistake, the shipping

agent made the necessary correction. This is the reason why the four (4) out of the five (5) named cooperatives in the first set of bills of lading denied admission of the importation while the respondents, the named cooperatives in the second set of bills of lading, asserted their right.

This Court will not allow respondents' right to be set aside on the ground of a mistaken document not attributable to their own doing.

***Res judicata* does not apply
in the instant case**

Petitioner believes that *res judicata* applies to the present case, either by "bar by prior judgment" or "conclusiveness of judgment".³⁸

Petitioner cited two cases of the Court in Division with Entries of Judgment, which are, *People vs. Ugnayan Magbubukid ng San Isidro, Inc.*³⁹ and *People vs. Maximo Hernandez, et al.*⁴⁰ The Court in Division ruled, in those cases, that for failure of the consignees, UMSII and SMKKMC [two (2) of the five (5) cooperatives in the first set of bills of lading], to present import authorities, the importation of the 94,000 bags of Vietnamese rice on board MV Minh Tuan 68 was illegal.

We find the aforementioned cases cited by petitioner irrelevant to the case at bar and the application of *res judicata* to be misplaced.

A previous judgment operates as a bar to a subsequent one when it had "touched on a matter already decided", or if the parties are in effect "litigating for the same thing".⁴¹ On the other hand, conclusiveness of judgment finds application when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction.⁴²

The Supreme Court expounded the concept of *res judicata* and explained it in the case of *Republic of the Philippines (Civil Aeronautics Administration) vs. Yu*,⁴³ in this wise:

Res judicata literally means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." *Res judicata* lays the rule that an existing final judgment or decree rendered on the merits,

³⁸ *Sps. Antonio vs. Vda. De Monje, et al.*, G.R. No. 149624, September 29, 2010.

³⁹ CTA Crim. No. O-380, December 6, 2017.

⁴⁰ CTA Crim. No. O-379, May 23, 2018.

⁴¹ *Agustin vs. Sps. Mariano, et al.*, G.R. No. 168139, January 20, 2009.

⁴² *Degayo vs. Magbanua-Dinglasan, et al.*, G.R. No. 173148, April 6, 2015.

⁴³ G.R. No. 157557, March 10, 2006.

and without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.

In the case of *Villanueva vs. Court of Appeals*,⁴⁴ the Supreme Court enumerated the elements of *res judicata* as follows:

1. the judgment sought to bar the new action must be final;
2. the decision must have been rendered by a court having jurisdiction over the subject matter and the parties;
3. the disposition of the case must be a judgment on the merits; and,
4. there must be as between the first and second action, identity of parties, subject matter, and causes of action.

Prescinding from the above, the primordial consideration in the application of *res judicata*, with respect to the present case, is the fourth requisite. Corollary, to satisfy such requirement, there must be identity of parties, of subject matter, and of cause of action.

While it may be said that there is an identity of subject matter in CTA Crim. Case Nos. O-379 and O-380 and the case under consideration, which is the 94,000 bags of Vietnamese rice on board MV Minh Tuan 68, there was no identity of parties and cause of action.

The parties in those two (2) criminal cases were the UMSII and SMKKMC while the parties here are SMKSIC, GVUC, and SMC.

Similarly, there was no identity of cause of action which is defined as “*the act or omission by which a party violates a right of another*”.⁴⁵ In those two (2) cited criminal cases, the petitioner’s cause of action is the illegal rice importation of the accused UMSII and SMKKMC constituting the crime of smuggling and unlawful importation. On the other hand, the respondents’ cause of action in the present case is their right over the subject rice importation which was seized by petitioner. Evidently, these two (2) causes of action are different.

⁴⁴ G.R. No. 110921, January 28, 1998, 349 Phil. 99 (1998).

⁴⁵ Section 2, Rule 2, Rules of Court. See also *Dy vs. People, et al.*, G.R. No. 189081, August 10, 2016.

Indeed, respondents were able to adduce evidence of ownership over the subject 94,000 bags of Vietnamese rice on board MV Minh Tuan 68. They participated in the public bidding conducted by the NFA through the PSF-TES Program. Respondents were awarded contracts and were authorized by the NFA to import rice through their respective Notices to Proceed. An honest mistake was committed by the shipping agent with respect to the issuance of bills of lading but this was immediately corrected. Furthermore, there were various documents supporting the legitimacy of respondents' rice importation. Clearly, there can be no logical conclusion other than to declare that the rice importation of respondents is lawful. The seizure and subsequent auction of the rice shipment, therefore, have no bases in fact and in law.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for lack of merit.

Accordingly, the assailed Decision and Resolution promulgated on December 7, 2021 and June 30, 2022, respectively, by the CTA Third Division and CTA Special Third Division in CTA Case No. 9383, are **AFFIRMED**.

Petitioner is **ORDERED** to release to respondents the amount held in escrow in the total amount of One Hundred Fifty-Four Million Five Hundred Sixty-Six Thousand and Eight Hundred Pesos (₱154,566,800.00) representing the value of the 94,000 bags of seized and auctioned Vietnam rice.

SO ORDERED.

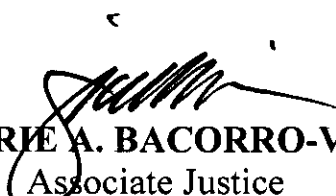

CORAZON G. FERRER-FLORES
Associate Justice

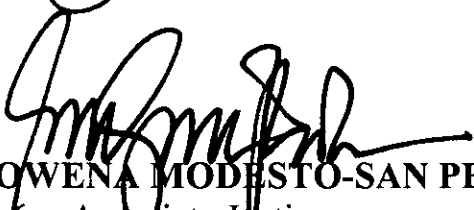
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.


ROMAN G. DEL ROSARIO
Presiding Justice