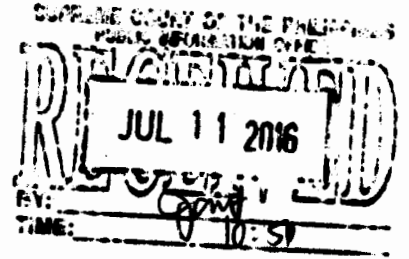




REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 30 May 2016 which reads as follows:*

**"G.R. No. 223275 – THE BUREAU OF CUSTOMS (BOC), represented by Commissioner Alberto D. Lina, v. INTERLINK RECYCLERS PHILIPPINES, INC., represented by Ma. Rosario Perez Lim. – We resolve the petition for review on *certiorari* under Rule 45 of the Rules of Court, challenging the November 9, 2015 decision and February 22, 2016 resolution of the Regional Trial Court (RTC) in Civil Case No. 115-0-2015.**

In 1966, Congress passed **Republic Act No. (RA) 4653** prohibiting the commercial importation of textile articles commonly known as used clothing or rags. In 1992, Congress passed **RA 7227** creating the Subic Special Economic Zone (*Freeport Zone*) as a separate customs territory and providing incentives to investors.<sup>1</sup>

Interlink Recyclers Philippines, Inc. (*Interlink*) entered into a lease agreement with the Subic Bay Metropolitan Authority (*SBMA*) pursuant to RA 7227. It acquired a certificate of registration to bring in **remnant garments, used clothes, and rags** to the Freeport Zone for segregation, grading, classification, sorting, baling, and 100% exportation to other countries.

On July 1, 2015, the Bureau of Customs (*BOC*) Commissioner<sup>2</sup> issued Customs Tariff Decision Circular No. 01-2015 (*Circular No. 01-2015*) to enforce RA 4653. The BOC argued that the circular applies to Interlink even though its business is located within the Freeport Zone.

Interlink filed a **complaint** for declaratory relief<sup>3</sup> assailing the validity or applicability of Circular No. 01-2015 within the Freeport Zone. Interlink argues that the BOC has no jurisdiction to restrict the free flow of goods because the Freeport Zone is not part of its customs territory.

In its decision, the RTC declared Circular No. 01-2015 **invalid**.

On the procedural aspect, the RTC held that declaratory relief is the correct remedy to challenge Circular No. 01-2015's validity because: (1) there is a judicial controversy; (2) the controversy is between persons whose interests are adverse; (3) Interlink has a legal interest in the controversy; (4) the issue is ripe for adjudication; and (5) Interlink has not breached or violated the circular.

<sup>1</sup> Such as tax and duty-free importation of goods.

<sup>2</sup> Alberto D. Lina.

<sup>3</sup> Under Rule 63 of the Rules of Court.

*Handwritten signature*

On the substantive aspect, the RTC held that Circular No. 01-2015 violated Interlink's right as a Freeport Zone investor. The RTC noted that the Freeport Zone is a **separate customs territory**. Pursuant to its authority under RA 7227, the SMBA allowed Interlink to import remnant garments, used clothing, and rags inside the Freeport Zone. The RTC upheld the validity of the lease agreement between the SMBA and Interlink.

The RTC also noted that *Commissioner of Customs v. Court of Tax Appeals*<sup>4</sup> does not apply because it involved importation to South Manila. On the other hand, the present case involves a special economic zone which is a separate customs territory.

The BOC moved to reconsider the RTC's decision but its motion was denied; hence, this Rule 45 petition.

### The Petition

In its petition, the BOC argues that Interlink's business of importing used clothing is outlawed by RA 4653. RA 7227 did not amend or create an exception to the express prohibition under RA 4653. Thus, the prohibition still applies within the Freeport Zone, even if it is declared as a separate customs territory.

The BOC also argues that Circular No. 01-2015 only strictly enforces RA 4653 within the country. Importation takes place when merchandise is **brought into the Philippines' customs territory** with the intention of unloading it at port.<sup>5</sup> The bringing in of prohibited articles into the Freeport Zone is still importation into the country regardless of Freeport Zone's designation as a separate customs territory.

### Our Ruling

The petition lacks merit.

RA 7227 contemplates the free movement of goods in and out of a portion of the country with the least government intervention to attract investors.<sup>6</sup> Hence, RA 7227 designates the Freeport Zone as a **separate customs territory**.<sup>7</sup> The customs territory is defined as a portion of the Philippines outside the Freeport Zone where the tariff and customs laws are in effect. To stress, the customs territory excludes the Freeport Zone.

During the sponsorship of the bill that became RA 7227, Senator Enrile explained that by establishing the freeport, a portion of the Philippine territory is carved out and considered as a foreign territory for customs or

<sup>4</sup> G.R. Nos. 171516-17, February 13, 2009, 579 SCRA 289.

<sup>5</sup> Tariff and Customs Code of the Philippines, Section 1202.

<sup>6</sup> *Agriex Co., Ltd. V. Villanueva*, G.R. No. 158150, September 10, 2014, 734 SCRA 533.

<sup>7</sup> RA 7227, Sec. 12.

importation law purposes.<sup>8</sup> Thus, the goods allowed in the Freeport Zone are **outside of the Philippines' customs jurisdiction unless these goods are brought into domestic commerce.**<sup>9</sup>

Following this logic, the prohibition under RA 4653 is applicable only within the customs territory, which excludes the Freeport Zone. In the present case, Interlink imports the used clothing into the Freeport Zone and exports them to other countries. These products do not enter the customs territory. Hence, Interlink's products are not covered by the prohibition.

We held in one case that the government's minimum interference policy in the Freeport Zone extends to the kind of goods which they may import into the zone.<sup>10</sup> Hence, Freeport Zone investors are granted the right to engage in any business and to import and export freely all types of goods into and out of the Freeport Zone, subject to the provisions of RA 7227, its implementing rules, and the SBMA regulations.<sup>11</sup> The implementing rules of RA 7227 allow the importation of **all** articles into the Freeport Zone, **except** those prohibited by the SBMA and those absolutely prohibited by law.<sup>12</sup>

Although the importation of used clothes is prohibited by law, specifically RA 4653, the prohibition is not absolute. A prohibition is absolute if it is free from limitations, restrictions, or exceptions.<sup>13</sup> RA 4653, however, states that importation of textile articles is prohibited *except* those imported under certain provisions in RA 1937.<sup>14</sup> Since the prohibition is not absolute, the general rule applies. Hence, the importation of Interlink's products into the Freeport Zone is allowed.

Furthermore, the application of the prohibition within the Freeport Zone will not serve the rationale behind RA 4653. The prohibition intends to safeguard people's health and to maintain the nation's dignity.<sup>15</sup> In the present case, Interlink's products will not even enter the customs territory as to affect the domestic market.

**WHEREFORE**, this Court **DENIES** the petition outright for lack of merit and **AFFIRMS** the November 9, 2015 decision and February 22, 2016 resolution of the Regional Trial Court in Civil Case No. 115-0-2015.

**SO ORDERED. "**

<sup>8</sup> *Agriex Co., Ltd. V. Villanueva*, supra note 6, citing RECORDS, SENATE 8TH CONGRESS, SESSION (JANUARY 14, 1992).

<sup>9</sup> *Id.*

<sup>10</sup> *Executive Secretary v. Southwing Heavy Industries, Inc.*, G.R. No. 164171, February 20, 2006, 482 SCRA 763.

<sup>11</sup> Implementing Rules and Regulations of RA 7227, Sec. 39.

<sup>12</sup> Implementing Rules and Regulations of RA 7227, Sec. 45.

<sup>13</sup> Collins English Dictionary

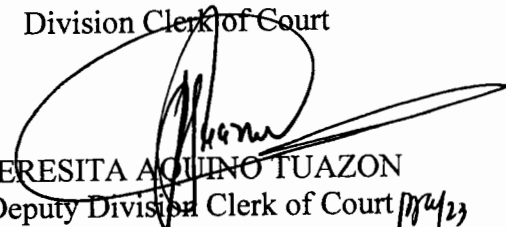
<sup>14</sup> RA 4653, Sec. 1: "It shall be unlawful for any person, association or corporation to introduce into any point in the Philippines textile articles commonly known as used clothing and rags, except when these are imported under Subsections "i", "j", "k", "l", "n", and "v" of Section 105 of Republic Act Numbered Nineteen hundred and thirty-seven."

<sup>15</sup> RA 4653 "An act to safeguard the health of the people and maintain the dignity of the nation by declaring it a national policy to prohibit the commercial importation of textile articles commonly known as used clothing and rags."

Very truly yours,

MA. LOURDES C. PERFECTO  
Division Clerk of Court

By:

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *11/24/23*

ATTY. LEONARDO W. BERNABE (reg)  
Counsel for Respondent  
GT Solar Building  
Sta. Rita corner Canal Roads, CBD  
Subic Bay Free Port Zone, Olongapo City

OFFICE OF THE SOLICITOR GENERAL(reg)  
134 Amorsolo Street  
1229 Legaspi Village  
Makati City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 72  
Olongapo City  
Civil Case No. 115-0-15

JUDGMENT DIVISION (x)  
Supreme Court, Manila

OFFICE OF THE CHIEF ATTORNEY (x)  
OFFICE OF THE REPORTER (x)  
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)  
LIBRARY SERVICES (x)  
Supreme Court, Manila  
[for uploading pursuant to A.M. No. 12-7-1-SC]

*Please notify the Court of any change in your address.*  
GR223275. 05/30/16 (20)URES