

G.R. No. L-9614

[ G.R. No. L-9614. May 12, 1958 ]

**JUAN YSMAEL & CO., INC., PLAINTIFF-APPELLANT, VS. WILLIAM LINES, INC.,  
DEFENDANT-APPELLEE.**

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

### **CONCEPCION, J.:**

An appeal from a decision of the Court of First Instance of Manila, the dispositive part of which reads:

“PREMISES CONSIDERED, the Court hereby renders judgment in favor of the defendant and against the plaintiff, dismissing the plaintiff’s complaint, and ordering the plaintiff to pay the defendant the amount of P67,374.39 as damages for repairs made on the three vessels due to the typhoon; the amount of P47,905.59 as damages for salaries of officers and crews of the three vessels while tied up in the port of Cebu; the amount of P6,104.20 as damages for steward expenses for the food of said officers and crews while the vessels were tied up in the port of Cebu; and the amount of P3,000.00 as attorney’s fees, plus the costs of this action.”

Early in August, 1950, K.H. Hemady, then president of plaintiff Juan Ysmael & Co., Inc., asked Nicolas Y. Orosa, of the Hongkong & Shanghai Banking Corporation, to look for steam vessels available for sale to the Indonesian Republic. After making some inquiries, Mr. Orosa found, soon thereafter, that defendant William Lines, Inc. had three such vessels, namely, s/s Cebu s/s Luzon and s/s Panay. Thereupon, he asked and obtained from the defendant an option to buy said vessels within fifteen (15) days (Exhibit S), which was extended for another fifteen (15) days. Then Orosa contacted Hemady and arranged a meeting between himself, Hemady and James Chiongbian, defendant’s executive

director, at which meeting Orosa advised Chiongbian that plaintiff was interested in said vessels, for the purpose of selling the same to the Indonesian Government. Thereafter, Hemady dealt directly with Chiongbian.

According to plaintiff's evidence, defendant's price for the three (3) vessels was P1,800,000, on which plaintiff wanted a 5% commission, or P90,000.00. Although agreeable thereto, defendant was unwilling to have the commission deducted from said price. Hence, the commission was added to the latter, and the price for the Indonesian Government was fixed at P1,890,000, Hence, on August 25, 1950, plaintiff wrote the letter Exhibit 2-W.L. reading:

"Republic of Indonesia  
Shipping Commission  
Admiral Apartments,  
Manila

Gentlemen:

This is to confirm my previous offer to the Indonesian Government of the steamships S/S 'Panay', 'Cebu', and 'Luzon' for the price of One Million Eight Hundred Ninety Thousand Pesos (P1,890,000.00).

I am certain that these ships are badly needed at this time in Indonesia and that the temporary inspection that was recently given on the S/S 'Luzon' by your shipping inspectors, Mr. C. Hschaper, Mr. F.J. Mathieu, and Mr. Frank C. Starr, has resulted in a satisfactory conclusion, and if the above ships are accepted, we hereby invite your shipping inspectors to make a thorough, final and complete inspection of all three ships at any time that is convenient to them. We ourselves are thoroughly convinced that since these ships were built in late 1946, they have been kept and are in the best operatable condition possible.

If the above offer is acceptable, kindly open an irrevocable Letter of Credit in the name of Juan Ysmael & Co., Inc., Manila, for the above amount.

Very truly yours,

JUAN YSMAEL & CO., INC.

By: (Sgd.) K. H. Hemady  
K.  
H. HEMADY  
President”

Defendant approved this communication, by writing, at its lower left hand margin, the following:

“Above acknowledged and approved.

WILLIAM LINES INC.

By: (Sgd.) James Chiongbian  
JAMES CHIONGBIAN

Manager”

On August 26, 1950, plaintiff wrote the communication Exhibit 3-W.L. (also Exhibit G), which is of the following tenor:

“Republic of Indonesia  
Shipping Commission  
c/o the Indonesian  
Embassy  
Manila

Gentlemen:

This is to confirm my previous offer to the Indonesian Government of the steamships S/S ‘Panay’, ‘Cebu’, and ‘Luzon’ for the price of One Million Eight Hundred Ninety Thousand Pesos (P1,890,000,00) for all three ships, complete.

I am certain that these ships are badly needed at this time in Indonesia and that the temporary inspection that was recently given on the S/S ‘Luzon’ by your shipping inspectors, Mr. C. Hschaper, Mr. P.J. Mathieu, and Mr. Frank C. Starr, has resulted in a satisfactory conclusion, and if the above ships are accepted,

we hereby invite your shipping inspectors to make a thorough, final and complete inspection of all three ships at any time that is convenient to them. We ourselves are thoroughly convinced that since these ships were built in late 1946, they have been kept and are in the best operatable condition possible.

In the event the Indonesian Government advises that these ships must be delivered to an Indonesian port, it is, therefore, necessary that an additional sum of P45,000.00 be advanced so as to pay for the cost of delivering these ships to an Indonesian port. Naturally, it depends upon the length of time involved in the delivery, etc. We shall calculate closely what the actual expenses involved would be and if we have any amount left over, we shall immediately return the amount to the Indonesian Government.

If the above offer is acceptable, kindly open an irrevocable Letter of Credit in the name of Juan Ysmael & Co., Inc., Manila, for the above amount, including the advance of P45,000.00 for delivery of these ships to an Indonesian port.

Very truly yours,

JUAN YSMAEL & CO., INC.

By:

(Sgd.) K. H. Hemady

K. H. HEMADY

President

Above acknowledged and approved.

WILLIAM LINES INC.

By: (Sgd.) James Chiongbian

JAMES CHIONGBIAN

Manager”

Meanwhile, a commission of agents of the Indonesian Government had come to the Philippines, upon representations made by the plaintiff and at its expense, to inspect the vessels and negotiate preliminarily the purchase thereof. The commission contacted Hemady and Chiongbian, with whose permission the technical advisers of the commission inspected the s/s Luzon in Manila and the s/s Cebu and the s/s Panay in Cebu. The result of the inspection was, in general satisfactory, except that the crankshaft of the s/s Cebu required repairs. Hence, on October 19, 1950, plaintiff wrote the letter Exhibit B, which is as follows:

“Republic of Indonesia  
Shipping Commission  
c/c The Indonesian  
Embassy  
Manila

Attention: Major Rachman Mashjur

Dear Sirs;

We are happy to inform you that from our understanding the inspections of the three (3) William vessels, ‘Cebu’, ‘Panay’, and ‘Luzon’, have resulted in good findings by your shipping inspectors, with the exception of the ‘Cebu’ which requires a small amount of work in the crankshaft which, we understand, will be done.

We shall await with interest when you will pay a visit to this office as soon as you have full assurance that you will finally place an order with our firm for the purchase of these three (3) vessels that have been in negotiations with your Government by our firm during the last sixty days. Furthermore, in reference to our letter to the Shipping Commission of Indonesia in Manila, under date of August 26, 1950, referring to the fourth paragraph thereof concerning the opening of the Letter of Credit in the name of Juan Ysmael & Co., Inc., we desire that inasmuch as the Luzon Stevedoring Company will handle the entire shipment of these three vessels to Indonesia for our firm and in behalf of your

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Government, you kindly open an Irrevocable Letter of Credit in the name of E.M. Grimm of the National City Bank of New York, New York, who is head of the Luzon Stevedoring Company.

We earnestly hope that you will be kind enough to let us know within a few days concerning the purchase of these three vessels, and we await and anticipate a favorable reply from you.

Very truly yours,

JUAN YSMAEL & CO., INC.  
(Sgd.) K. H. HEMADY  
K. H.  
HEMADY  
President"

At a conference held in plaintiff's office, on October 20, 1950, representatives of both parties herein and those of the Indonesian Republic agreed, upon the latter's request, that the price be reduced by P20,000, for the repair of the crankshaft of the s/s Cebu; that the net price for the Indonesian Republic would be P1,870,000, of which P70,000 shall be for the plaintiff and the balance of P1,800,000 for the defendant; and that said sum of P1,870,000 shall be paid thru E.M. Grimm, President of Luzon Stevedoring Co., which had undertaken to handle the delivery of the vessels to the Indonesian Government. Conformably with this agreement, the latter's representative prepared, on that same occasion, the following cablegram to his home office:

"OCTOBER 20, 1950

LETKOL TAHIJA  
KEMENTERIAN PERTAHANAN  
DJAKARTA

PLEASE OPEN LC (Letter of Credit) IN THE NAME OF E.M. GRIMM AT  
NATIONAL CITY  
BANK OF NEW YORK FOR CANADIAN COASTERS FOR AN AMOUNT OF PESOS

1,870,000 STOP  
PESOS 1,890,000 MINUS PESOS 20,000 FOR THE REPAIR OF CRANKSHAFT  
STOP COASTERS  
WILL BE DELIVERED IN CEBU STOP EXPENSES FOR CHEW AND EQUIPMENT  
FOR SAILING TO  
DJAKARTA WILL BE ARRANGED BY MATTHIEW WITH LUSTEVECO STOP  
PLEASE INFORM  
LUSTEVECO REGARDING THIS ARRANGEMENT STOP

RACHMANMASJHUR”

Plaintiff, in turn, wrote to the Luzon Stevedoring Co., letter Exhibit F,  
which we quote;

“October 20, 1950

Luzon Stevedoring Company  
Manila

Gentlemen:

We are happy to inform you that in reference to the three (3) William ships,  
‘Luzon1, ‘Cebu’, and ‘Panay’, about which we have been negotiating directly with  
the Indonesian Government for the past three months, the matter has today been  
brought to a successful conclusion.

An official directive was cabled today from our office by Maj. Rachman  
Masjhur, Chief of the Indonesian Shipping Commission, to the Ministry of  
Defense  
of the Republic of Indonesia at Djakarta, authorizing them to cable instructions  
to open a Letter of Credit in the name of Mr. E. M. Grimm of your concern in the  
amount of P1,870,000.00. We regret to inform you, however, that there has been  
a  
reduction of 20,000,00 from the original sales price of the three ships by our  
firm to the Indonesian Government for P1,890,000.00 This deduction was made

inasmuch as a crankshaft must be replaced and repaired on the 'Cebu'. The official inspector of the Indonesian Shipping Commission requested that this reduction had to be made before the sale could be consummated.

Our firm

has advised Maj. Masjhur to contact your firm immediately in regards to outfitting and equipping the abovementioned three vessels with crews, etc., so that they can be dispatched to Indonesia as soon as possible. This office will keep you closely informed of any further developments resulting from this transaction and we would appreciate a letter from you advising that you have received this letter and also a confirmation from Mr. Grimm that he has received the abovementioned amount. As soon as this amount has been confirmed by Mr. Grimm, our firm would appreciate that you advise your Bank here to advance our firm the amount of P1,870,000.00 so that we can immediately turn this amount over to the owners of the William ships.

Very truly yours,

JUAN YSMAEL & CO.,  
INC.

(Sgd.) K. H. Hemady  
K. H. HEMADY  
President"

While tied up in Cebu, for delivery to the party concerned, the vessels were damaged by a typhoon that passed by on November 20, 1950. Said craft had, therefore, to undergo repairs. For this reason, and because one of the technical advisers of the Indonesian Government submitted thereto a report adverse to the purchase of the vessels, contradicting his previous advice thereon, said Government became hesitant, on whether to acquire said vessels. After a trip of Chiongbian to Indonesia to ascertain the cause for such hesitation, on January 8, 1951, defendant wrote the Chief of Staff of the Indonesian Armed Forces - for which the vessels were seemingly intended - a letter "asking an immediate decision" on the matter. The Indonesian Shipping Commission replied on January 13, stating that, inasmuch as defendant was "asking for an immediate decision xx this leads to the decision that the Government of the Republic of Indonesia



will not buy the aforementioned ships” and that the negotiation was thereby “considered closed” (Exhibit 1). Chiongbian made another trip to Indonesia, and eventually, on March 8, 1951, defendant and the Indonesian Republic executed the corresponding “agreement to buy and sell” said vessels for the aggregate price of \$935,000, U.S. currency (Exhibit 5-W.L.). Subsequently, the vessels were delivered to the Indonesian Government and the agreed price was paid to the defendant. Thereafter, plaintiff demanded its alleged commission thereon (Exhibits L and M), and, upon defendant's failure to heed the demand, the former instituted the present action in the Court of First Instance of Manila to recover the sum of P70,000, plus P25,000, representing expenses allegedly incurred for the promotion of the sale, and P7,000, as attorney's fees.

In its answer, the defendant alleged that plaintiff had “completely” failed either to sell or to buy the vessels above referred to; that said vessels were finally sold to the Indonesian Government through the efforts of the defendant alone; that plaintiff's alleged expenses in the sum of P25,000 were incurred on its account and at its own risk, and without defendant's knowledge or consent; and that plaintiff had never been authorized to act as an agent or representative of the defendant. The latter, likewise, set up a counterclaim of P82,163.80 for the repairs of the damages suffered by the vessels in November, 1950, plus P300,000 for unrealized profits, P50,000 for damages to its business reputation and P10,000 as attorney's fees. In defendant's amended answer, the counterclaim for compensatory damages was increased to P120,853, and that for unrealized profits was reduced to P186,000.00.

In reply, plaintiff averred that it was defendant's agent in the sale to the Indonesian Government; that plaintiff was to be paid a commission for its services as such agent; that defendant usually tied up its vessels in Cebu, which is the home port of its vessels and where it has its main offices; that no demand had ever been made by the defendant for the repairs mentioned in its counterclaim; and that it has not suffered the damages therein alleged. After appropriate proceedings, the lower court rendered a decision rejecting plaintiff's pretense, accepting defendant's contention and sentencing the latter as above stated. Hence this appeal by the plaintiff.

The main question for determination in this appeal is the if, nature of the relation between plaintiff and defendant herein, under the above mentioned transactions which culminated in the sale of s/s Cebu, s/s Luzon and s/s Panay to the Indonesian Government. Plaintiff maintains that it was defendant's agent. Defendant denies said agency and asserts that plaintiff undertook to buy the vessels from the defendant with a view, in turn, to selling the vessels, at its (plaintiff's) own risk and account, to the Indonesian Government; and that, this proposed sale to the latter by the plaintiff having failed completely, the defendant "alone" sold the vessels to the Indonesian Government, without plaintiff's intervention.

Upon a review of the record, we are of the opinion, and so hold, that plaintiff acted merely as a broker or intermediary between the defendant and the Indonesian Government, Our main reasons therefor are?

1. Plaintiff's representations to the Indonesian Government were approved by the defendant and such approval was transmitted and made known to the Indonesian Government. If the plan was for the defendant to sell the vessels of the plaintiff, in order that the latter could dispose of the vessels, acting in its own behalf, it would have been unnecessary to secure defendant's approval to said representations by the plaintiff. What is more defendant's pretense is refuted by said approval, which indicates that the source of plaintiff's authority was the very defendant. Defendant says that its aforesaid approval meant only that it had no objection to the resale of the vessels by the plaintiff at an overprice. If, however, plaintiff were buying the vessels from the defendant - which expected payment in cash - the latter would have had no interest in what the former did or intended to do with the vessels, and no right whatsoever to interfere in the overprice that plaintiff may wish to put should it sell the vessels to a third party. Much less would defendant's approval have been transmitted to this third party.
2. The original inducement for plaintiff's intervention in the above mentioned transactions was computed at five per centum (5%) of the net price fixed by the defendant. This is, precisely, how the compensation of agents or brokers is generally fixed, Had plaintiff not acted in such capacity, it could, and, probably, would, have added P100,000 or P200,000 to plaintiff's net price, and charged the Indonesian Government either P1,900,000 or P2,000,000 in round

figures. The fact that plaintiff did not do so and that it had to obtain defendant's approval to the amount of the over-price included in plaintiff's offer to the Indonesian Government cannot be reconciled with defendant's theory to the effect that plaintiff had acted on its own account and at its own risk, and, hence, independently of the defendant.

3. When, after inspection by technicians of the Indonesian Government, the s/s Cebu appeared to require some repairs, a conference was held between representatives of the plaintiff, of the defendant and of said Government. They agreed then that the cost of said repairs (P20,000) be deducted from plaintiff's compensation; that the Indonesian Government would pay, therefore, P1,370,000, instead of P1,890,000; and that said sum of P1,870,000 would be divided as follows: P70,000 for the plaintiff, and P1,800,000 for the defendant. Had their understanding been that the vessels would be bought by the Indonesian Government, from the plaintiff, not from the defendant, through plaintiff, defendant would not have participated in said conference, and its approval to the reduction asked by said Government would have been unnecessary, inasmuch as plaintiff's price was not affected thereby.
4. On January 8, 1951, defendant's manager wrote to the Chief of Staff, Armed Forces of the Republic of Indonesia, "asking for an immediate decision whether to buy or not the three Canadian Coasters, s/s Luzon, s/s Cebu and s/s Panay". If the Indonesian Republic was buying the vessels from plaintiff, not through plaintiff, from the defendant, the latter would not have dared write said communication to the Indonesian Government, much less ask an "Immediate decision" on the matter of the purchase of said vessels. Indeed, the "immediate decision" given by the Indonesian Government as requested by defendant, instead of telling the latter that it had no business asking said decision - which would be the case if defendant's pretense were true - indicates clearly that even the Indonesian Government understood that the defendant was the seller and that plaintiff was only a go-between. This is borne out by the fact that, in the letter of the Indonesian Government to the defendant, dated January 13, 1951 (Exhibit 1), the former stated that "there was an understanding between your Company and the Indonesian Shipping Commission that the buying of the three (3) above mentioned vessels will take place after inspection by the two nautical technical advisers of said Shipping Commission." The "your Company" referred to

in this communication is its addressee, defendant herein.

We have not overlooked the circumstances relied upon “by the defendant, and the lower court, in support of the farmer’s pretense, such as Orosa’s option to buy the vessels from the defendant and the statement in plaintiff’s letter Exhibit 4-W.L. (quoted in full hereunder) to the defendant, to the effect that “we contemplate in the very near future in being in a position to pay you cash for the above mentioned three vessels”. The role played by plaintiff must be deduced, however, from the whole transaction not from isolated acts or expressions. In this connection, Atty Orosa testified that, although, plaintiff had originally thought of buying the vessels, it eventually was satisfied with getting a commission as an intermediary. Contrary to defendant’s pretense, the testimony of Orosa is straightforward, impartial and trustworthy. Besides, it is strongly corroborated by the fact that plaintiff advised the representative of the Indonesian Government and, also, the Luzon Stevedoring Co. (see Exhibit F, supra) that the owner of the vessels was the defendant. In short, plaintiff never represented to anybody that it owned the vessels or would own the same.

It is urged by the defendant that plaintiff had been guilty of undue delay in taking delivery of the vessels; that in its letter of October 18, 1950, Exhibit J, plaintiff assured the defendant that the negotiations would be brought to a conclusion and payment would be made “within the next few days”, and neither was effected by November 20, 1950; that, in view of said delay, the damage then suffered by the vessels in consequence of a fortuitous event should be at plaintiff’s risk; that plaintiff’s intervention ceased completely thereafter, particularly when, on January 13, 1951, the Indonesian Republic announced its decision not to buy the vessels in question and declared the negotiations for the acquisition thereof “closed”; and that the sale to the Indonesian Government was perfected and consummated through the efforts of defendant “alone”, without plaintiff’s assistance.

The argument, based upon plaintiff’s alleged delay in taking delivery of the vessels, is predicated upon the premises that plaintiff was supposed to buy the vessels from the defendant, which is false. In fact, not a single written demand was ever made by the defendant upon the plaintiff, either for the latter to take delivery of the vessels, or for the payment of the price thereof. Neither was

any similar demand made by the defendant upon the plaintiff for indemnity of the damages - aggregating over P300,000, according to defendant's counterclaim - allegedly imputable to the plaintiff. We cannot believe that a matter as important as this would have been the object merely of oral representations by the defendant, as contended by the latter, even after plaintiff's formal written demand, which per sa indicated the possibility of litigation. Said omissions strongly suggest that defendant did not regard the plaintiff as buyer or prospective buyer of the vessels and that the present theory of the defense does not dovetail with defendant's understanding of the juridical relation between the parties when the events that led to this litigation took place.

With respect to the alleged delay, defendant's pretense is based upon Exhibit J (also Exhibit 4-W.L.) reading:

"October 18, 1950

William Lines 924  
San Fernando  
Manila

Attention: Mr. James Chiongbian

Dear Sirs:

This is to inform you that the information now on hand strongly indicates that within the next few days we can bring to a conclusion the negotiations between our firm and your company in reference to the three (3) vessels, 'Cebu', 'Panay', and 'Luzon'. We contemplate in the very near future in being in a position to pay you cash for the abovementioned three vessels as agreed in our option which we are holding amounting to P1,300,000.00. The P1,800,000.00 represents the full purchase price for the said three ships, 'as is where is'. Any other necessary repairs or materials purchased shall be for the account of Juan Ysmael & Co., Inc

Kindly advise us, either personally or by letter, where you can be located in the very near future so as to enable both of us to get together to conclude this transaction once and for all.

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Yours very truly,  
JUAN  
YSMAEL & CO., INC.

(Sgd.) K. H. Hemady  
K. H. HEMADY  
President

Above noted and agreed to.  
Manila, October 18, 1950

WILLIAM LINES

(Sgd.) J. Chiongbian"

This communication contains, however, no assurance either as to the consummation of the sale or as to the payment of the prior Plaintiff merely stated therein "that the information now in hand strongly indicates that within the next few days, we can bring to a conclusion the negotiations (not the sale or delivery) between our firm and your company in reference to the three vessels, Cebu Panay and Luzon". Furthermore, the very defendant alleged in its counterclaim that "plaintiff requested the defendant to have the said vessels tied up and ready for delivery at the port of Cebu by November, 1950", without specifying the date on which delivery would be effected. What is mere, defendant was apparently agreeable to the delivery being made sometime in "November, 1950". It is clear, therefore, that there was no default or delay on plaintiff's part when a typhoon damaged the vessels on November 20, 1950. Thereafter, the vessels had to be sent to drydocks for repairs, although these were not seemingly made right away. For one thing, the s/s Luzon was partially repaired in Cebu and later sent to Hongkong, where the repairs appear to have been completed early in May, 1951. The records do not show the date of completion of the repairs of s/s Cebu and s/s Panay. In any event, prior thereto defendant was not in a position to deliver the vessels, and, hence, plaintiff should not be blamed for the consequent delay in the negotiations with the Indonesian Government, which were practically complete when force majeure interfered on November 20, 1950.

As regards the communication of the Indonesian Government of January 13, 1951, announcing its decision not to buy the vessels, it should be noted that the same was prompted by defendant's request for an "immediate decision" thereon. Inasmuch as it was not in a position, at that time, to settle an internal conflict that developed between two branches of its service in connection therewith, the Indonesian Government felt that said request left it no choice but to say that it would not buy the vessels. That the tenor of defendant's request was responsible for this answer, despite the fact that the Indonesian Government really wanted to buy the vessels, although it could not say so as yet, is apparent when we consider that two (2) months later (March 8, 1951), it did formally agree to buy the vessels at substantially the same terms and conditions negotiated prior to January 13, 1951, when said answer was given. Indeed, it would seem, also, that the request for an "immediate answer" had hurt the sensibility of the Indonesian Government, for which reason it said that said request led "to the decision x x x not to buy the ships" and that the negotiation was thereby "considered closed". Obviously, plaintiff should not be made to suffer for the consequences of the defendant's lack of tact in handling the situation.

Lastly, it is clear from the record before us that the sale to the Republic of Indonesia was not consummated by the defendant "alone", without plaintiff's intervention. Plaintiff looked for and found the vessels for the Indonesian Government. Through its friend Atty. Orosa, plaintiff got an option for the vessels. Plaintiff settled with the defendant the price of the vessels. Plaintiff contacted the Indonesian Republic and negotiated with the same for the sale of said vessels. Plaintiff defrayed the expenses of the Indonesian mission that came to the Philippines, examined the vessels and arranged the details of the transaction. Needless to say, the sale would not have taken place without such inspection. Again, the expenses for the repair of the crankshaft of s/s Cebu were deducted from plaintiff's share in the proceeds of the sale. Plaintiff, likewise, arranged with the Luzon Stevedoring Co., Inc., for the delivery of the vessels and the manner in which its price would be paid by the Indonesian Government.

It is true that Chiongbian went to Indonesia in 1951, and finally got the signature of the Indonesian Government to the "agreement to buy and sell" the vessels. However, except for Chiongbian's testimony to the effect that he had to

avail himself of the good offices of a nephew of President Sukarno, the record is absolutely silent on what he had done to bring the sale to a successful conclusion. Upon the other hand, the terms and conditions of the transaction appear to be in substance, those arranged by the plaintiff. The price was \$1,870,000. And the vessels were to "be taken "as is" and "where is". Hence, the head of the aforementioned Indonesian Commission, that came to the Philippines and dealt with plaintiff and the defendant, has made the following statement.

"Djakarta, Java, Indonesia.  
12th November 1951

TO WHOM IT MAY CONCERN

THIS IS TO CERTIFY, that I, K. Rachman Masjhur, Major of the Army, Republic of Indonesia, do hereby state that the business firm of Juan Ysmael & Co., Manila, and their representative in Indonesia, Mr. Frank C. Starr, were the sole parties responsible for first advising about and making the first firm offer of the three (3) vessels known as the CANADIAN COASTERS', namely the 'SS LUZON', 'SS CEBU' & 'SS PANAY' said vessels, at that time owned and operated by the WILLIAM LINES INC. of Manila, P.I. Said offer being made to our Army.

and furthermore

that due to the sincere efforts of JUAN YSMAEL & CO., Manila, together with their Indonesian representative, Mr. Frank C. Starr, was in fact a direct cause that a Commission was formed, of which I was in command, to visit Manila for the sole purpose to inspect and examine the above mentioned vessels and that said inspection & examination was carried out and a due report was made thereof and forwarded to my government and that based on the findings of this report the purchase by the Government of the Republic of Indonesia of the above mentioned vessels was effected in due time.

and that



this declaration is given, by me, of my own free will and sincere belief that the above mentioned firm of Juan Ysmael & Company, Manila, and their Indonesian representative, Mr. Frank C. Starr, are justly due recognition by all and soy interested parties concerned herewith.

(Sgd.) K. Rachman Masjhur  
K. Rachman Masjhur  
Major,  
T.N.L.

(Sgd.) F. Lease  
Frank C. Lease  
Ministry of Information  
Republic of  
Indonesia.  
as Witness to signature  
of Major K. Rachman Masjhur. Djakarta  
Nov 12,1951

Chiongbian's trip to Indonesia seemed, however, successful one respect - he managed to iron out the evil effects of defendant's ill advised letter of January 8, 1951 asking an "immediate decision". Evidently, defendant should not be allowed to avail itself of the consequences of its aforementioned wrong move in order to defeat plaintiff's claim.

In short, the sale to the Indonesian Government was, in effect, the product of plaintiff's intervention, so that it is entitled to the P70,000 commission agreed upon as compensation for its services in connection therewith. For this reason, plaintiff should not recover its alleged expenses during the negotiations, such expenses having been incurred at its own risk and in consideration of the aforementioned compensation it expected to collect. Upon the other hand, it is apparent that plaintiff is not liable, either for the damages caused to the vessels by the typhoon on November 20, 1950, or for the repair of said damages, or for the salaries and expenses of the crew during said repairs the ultimate cause thereof being a fortuitous event.

WHEREFORE, the decision appealed from is hereby reversed, and another

one.-Will be entered sentencing defendant William Lines, Inc., to pay to plaintiff Juan Ysmael & Co., Inc. the sum of P70,000.00 with interest thereon, from December 17, 1953, the date of institution of this case, at the rate of 6% per annum, besides the costs.

IT IS SO ORDERED.

*Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J.B.L., Endencia, and Felix, JJ.,*  
concur.

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Date created: March 01, 2017