

****Title:****

Tabacalera Insurance Co., Prudential Guarantee & Assurance, Inc., and New Zealand Insurance Co., Ltd. vs. North Front Shipping Services, Inc. and Court of Appeals

****Facts:****

1. ****Shipping Incident:****

- On August 2, 1990, 20,234 sacks of corn grains worth PHP 3,500,640 were shipped on North Front 777, a vessel owned by North Front Shipping Services, Inc.
- The cargo, consigned to Republic Flour Mills Corporation, was insured with Tabacalera Insurance Co., Prudential Guarantee & Assurance, Inc., and New Zealand Insurance Co., Ltd.

2. ****Pre-shipment Inspection:****

- The vessel was inspected by shippers' representatives and deemed fit for carrying merchandise.
- The corn grains were covered with tarpaulins and wooden boards, and the hatches were sealed.

3. ****Journey and Arrival:****

- The vessel departed Cagayan de Oro on August 2, 1990, and arrived in Manila on August 16, 1990.
- Upon arrival, the consignee was notified, but unloading was delayed, occasionally due to weather.

4. ****Unloading and Condition of Cargo:****

- Unloading started late and completed 20 days after arrival.
- A shortage of 26.333 metric tons was recorded, and remaining grains were moldy, rancid, and deteriorated.

5. ****Examination and Analysis:****

- Precision Analytical Services examined the corn grains: 18.56% moisture content, wetting due to saltwater contact. Mold growth was incipient and could be arrested by drying.
- Republic Flour Mills Corporation rejected the damaged cargo and demanded payment from North Front Shipping Services, Inc., which was ignored.

6. ****Insurance and Subrogation:****

- The insurance companies compensated Republic Flour Mills Corporation PHP 2,189,433.40 and were subrogated to its rights.

- They filed a damages complaint against North Front Shipping Services, Inc., claiming negligence and fault of the carrier.

7. **Carrier's Defense:**

- North Front Shipping Services, Inc. argued absence of negligence, citing the vessel's pre-loading inspection, Coast Guard's Permit to Sail, doubled and new tarpaulins, and farm-wet grains loaded by the shipper.

8. **Trial Court's Ruling:**

- The Regional Trial Court dismissed the complaint, ruling it was a charter-party agreement requiring only ordinary diligence.

9. **Court of Appeals' Decision:**

- The Court of Appeals affirmed the trial court's decision, stating that North Front Shipping Services, Inc. exercised diligence sufficient for a common carrier.

10. **Supreme Court Petition:**

- The insurance companies petitioned for certiorari before the Supreme Court, challenging the rulings of the lower courts.

Issues:

1. Whether North Front Shipping Services, Inc. was a common carrier under the law despite the charter-party agreement.
2. Whether North Front Shipping Services, Inc. failed to exercise extraordinary diligence in the care of the cargo.
3. Whether Republic Flour Mills Corporation's delay in unloading the cargo constituted contributory negligence.

Court's Decision:

1. **Common Carrier Status:**

- The Supreme Court ruled that North Front Shipping Services, Inc. remained a common carrier despite the charter-party agreement, necessitating the observance of extraordinary diligence.
- The service was offered to the public indiscriminately, thus retaining the obligations of a common carrier under Article 1732 of the Civil Code.

2. **Failure of Extraordinary Diligence:**

- The Court held that North Front Shipping Services, Inc. did not prove it exercised

extraordinary diligence.

- Evidence, such as the rusty bulkheads and patched tarpaulins, coupled with exposure to saltwater, demonstrated the carrier's failure to protect the cargo.

3. **Contributory Negligence of Consignee:**

- The Supreme Court found Republic Flour Mills Corporation contributory negligent for the six-day delay in unloading despite timely notification, attributing 40% of the loss to them.
- Timely unloading could have minimized or avoided the damage.

Doctrine:

- Common carriers retain their obligations to observe extraordinary diligence in the vigilance over goods notwithstanding charter-party agreements.
- Common carriers must provide prima facie evidence disproving negligence if the goods are damaged while in their care.
- Contributory negligence by the consignee can reduce the liability of the common carrier.

Class Notes:

1. **Elements of a Common Carrier:**

- Nature of business: Transports goods/public for compensation
- Obligations: Extraordinary diligence in preserving goods.
- Charter-party agreements: Do not convert common carriers into private carriers.

2. **Statutory Provisions Cited:**

- Article 1732, Civil Code: Definition of common carrier.
- Article 1734, Civil Code: Circumstances where carrier is not liable for loss/damage.
- Article 1735, Civil Code: Presumption of negligence unless extraordinary diligence is proven.

3. **Interpretation/Application:**

- Carriers offering services publicly must maintain extraordinary diligence regardless of the type of contract with shippers.
- Delivery of goods in bad condition or loss during transit presumes carrier negligence, shifting the burden to the carrier to prove diligence.

Historical Background:

- The verdict aligns with jurisprudential emphasis on public policy and the protective measures under the Civil Code ensuring rigorous duties of common carriers. The case underscores the comprehensive scope of common carrier liability and nuances of

contributory factors' impact on legal culpability.