

**AMERICAN INSURANCE COMPANY, PLAINTIFF-APPELLANT, VS.
REPUBLIC OF THE PHILIPPINES AND BUREAU OF CUSTOMS,
DEFENDANTS-APPELLEES.**

G.R. No. L-24955. July 29, 1968

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Appeal by the American Insurance Company from an order of the Court of First Instance of Manila (Civil Case No. 60551) dismissing its action to recover from the Republic the value of certain cargoes consigned to the insured San Miguel Corporation, and allegedly lost in 1964 while in the possession of the Bureau of Customs, as "arrastre" operator.

In a long line of decisions, starting from *Mobil Philippines Exploration, vs. Customs Arrastre Service*, L-23139, December 17, 1966, [1] this Court has repeatedly and uniformly held that the Bureau of Customs Arrastre Service performed a necessary incident of the primary governmental function of assess and collecting lawful taxes and revenues, charges, fines and penalties; that neither the Bureau nor the Republic are suable for said operations without the latter's consent, in view of the State's immunity from suit and that the claimant's remedy lies in filing a claim with the Auditor General, under Commonwealth AO No. 327. No reason is shown for departing from the established doctrine.

WHEREFORE, the appealed order of dismissal is affirmed, with costs against appellant.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles and Fernando, JJ., concur.

[1] *V., inter alia*, *Insurance Co. of North America*, L-26532, July 10, 1967 and L-27515; Sept. 5, 1967; *Phil. First Ins. Co. vs. Customs Arrastre Service*, L-???? Sept. 12, 1967; *Royal Ins. Co. vs. American Pioneer Line, et al.*, L-25323, We ember 15, 1967; *American Ins. Co. vs. Republic*, L-25476, Nov. 15, 1967; *Hartford Fire Ins. Co. vs. Marchessine & Co.*, L-24544, Nov. 15, 1957; *Home. Ins. Co. vs. U. S. Lines*, L-25593, Nov. 15, 1967; *Domestic Ins. Co. vs. Barber Lines*, L-23879, NOV 18, 1967; *Domestic Ins. Co. vs. American Pioneer Line*, L-28651, Feb. 27, 1958.

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