

**DOMESTIC INSURANCE COMPANY OF THE PHILIPPINES, PLAINTIFF
AND APPELLEE, VS. MAERSK LINE, ET AL., DEFENDANTS, MANILA
PORT SERVICE AND/OR MANILA RAILROAD COMPANY, INC.,
DEFENDANTS A...**

G.R. No. L-27808. June 29, 1972

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal taken by defendants Manila Port Service and Manila Railroad Company (now Philippine National Railways) from the decision of the Court of First Instance of Manila dated February 15, 1967 in its Civil Case No. 55027.

The plaintiff, Domestic Insurance Company of the Philippines, filed the complaint in the aforesaid court for recovery of the sum of P3,723.76, plus interest, attorney's fees and expenses of litigation, with Maersk Line and its Philippine agent, the Compania General de Tabacos de Filipinas, on one hand, and the Manila Port Service and the Manila Railroad Company, on the other, as alternative defendants.

On July 31, 1965 the parties entered into the following stipulation of facts:

* * * * *

"3. That on or about August 31, 1962, the SS Marit Maersk took on board at San Francisco, U.S.A., a consignment of Cargo including seven (7) cases truck engine parts for shipment to Manila for which defendant Maersk Line issued a Bill of Lading No. 10 in the name of Federal-Mogul International, as shipper, consigned to the order of China Banking Corporation, Manila, with arrival notice to Security Auto Supply, 1048 Sanchez St., Manila; * * * ;

"4. The SS Marit Maersk arrived in Manila on September 20, 1962, and, in due course discharged her cargo unto the custody of defendants arrastre operators including the subject shipment of seven (7) cases truck engine parts complete and in apparent good order condition. The shipping documents covering the cargo were endorsed and sent to Security Auto Supply which paid for and became the owner thereof and which cleared the documents through defendants and the Bureau of Customs;

"5. That of the above-mentioned cargo of seven (7) cases truck engine parts, two (2) cases engine truck parts were delivered by the defendants, arrastre operators to the consignee complete and in good order condition; whereas, five (5) cases thereof, Nos. 2, 3, 4, 5, and 7 were delivered to the consignee all empty;

"6. That the consignee Security Auto Supply and/or its broker immediately filed claims for the undelivered cargo with the defendants as per provisional and formal claims marked and attached herewith as Annexes D, D-1, E, and E-1;

"7. That the cargo in question was insured by Security Auto Supply with plaintiff for loss and/or damage; that the plaintiff indemnified Security Auto Supply in the amount of P3,670.46; attached hereto and marked as

Annexes F and F-1, respectively, are the certificate of insurance and subrogation receipt;"

On February 15, 1967 the lower court rendered judgment "in favor of the plaintiff and against the defendants, ordering the defendants to pay to the plaintiff, jointly and severally, the amount of P3,670.46, with legal interest until fully paid, P500.00 as Attorney's fees, and costs."

The defendants Manila Port Service and Manila Railroad Company appealed to this Court on a question of law; the other defendant appealed to the Court of Appeals.

Appellants here aver that the lower court erred: (1) in assuming jurisdiction to try and decide the case as against the defendants arrastre operators; (2) in assuming that the claims filed with the arrastre operators were sufficient compliance with the provisions of paragraph 15 of their Management Contract with the Bureau of Customs; (3) in not applying the P500-limited liability clause of the Management Contract; and (4) in awarding attorney's fees to the plaintiff-appellee.

On the first question it is contended that the lower court had no jurisdiction over the subject matter insofar as the appellants were concerned because the appellee's suit against them was based on a contract of deposit and therefore, in view of the total amount demanded, jurisdiction properly belonged to the city court; and that the rule on joinder of causes of action does not apply, for it is subject to the fundamental limitation that each and every cause of action must be within the original jurisdiction of the court in which the complaint is filed.

It must be noted that the appellants herein were sued as depositaries or custodians of the goods, while Maersk Line and its Philippine agent were impleaded in the alternative as carrier under the contract of carriage by sea. Admittedly, the action based on the contract of carriage is one in admiralty and therefore within the exclusive original jurisdiction of Courts of First Instance. (See 44 (d), Judiciary Act, as amended). The question of whether the two (2) causes of action brought respectively and in the alternative against two sets of defendants may be joined in the Court of First Instance, although one of the said causes of action, standing alone, would fall within the exclusive jurisdiction of the city court, has been settled in a number of cases. Thus in *Rizal Surety & Insurance Co. vs. Manila Railroad Company*, 16 SCRA 908 (April 30, 1966), We held:

"The complaint in this case named as alternative defendants under alternative causes of action (1) C.F. Sharp & Co., Inc., for breach of contract of carriage by sea, and (2) Manila Port Service and Manila Railroad Company, for violation of arrastre contract. The cause of action against C.F. Sharp & Co., Inc., being in admiralty, comes within the jurisdiction of the Court of First Instance (Section 44 [d], R.A. 296, as amended; *International Harvester Co. of the Philippines vs. Judge Aragon*, 84 Phil. 363); whereas, the cause of action against the Manila Port Service and Manila Railroad Company comes within the exclusive original jurisdiction of the municipal court inasmuch as the amount of the demand is less than P5,000.00 (Section 88, R.A. 296, as amended by R.A. 2613; *Delgado Brothers, Inc. vs. Home Insurance Company*, L-16567, March 27, 1961.)

"At the time the complaint was filed, plaintiff did not know at what precise stage of the series of transactions the loss complained of occurred. If the loss took place in transit, C.F. Sharp & Co. Inc. would be liable therefore; but if the loss occurred after the goods were landed and discharged from the carrying vessel, the Manila Port Service would bear the loss. Hence, the joinder of causes of action and parties defendants in the alternative which is permitted by Section 5 of Rule 2 of the Rules of Court, * * *;

* * * * *

And; since one of the causes of action is cognizable by the Court of First Instance the suit should be filed, as was correctly done by the plaintiff, in said court, notwithstanding that the other cause of action – if standing alone – would fall within the jurisdiction of the municipal court, by reason of the amount of the demand (*Sapino vs. Manila Oceanic Lines*, L-18776, January 30, 1964). In *International Harvester Co. of the*

Philippines vs. Judge Aragon (84 Phil. 363), where a similar action was filed with the municipal court, we held that the municipal court lacked jurisdiction over the case inasmuch as one of the alternative causes of action, against the shipping firm, was an action in admiralty, cognizable by the Court of First Instance."

This ruling was reiterated in *Hanover Insurance Co. vs. Manila Port Service & Manila Railroad Co.*, 19 SCRA 69; *Insurance Company of North America vs. Manila Port Service*, 23 SCRA 114; and *Firemen's Insurance Co. vs. Manila Port Service*, 20 SCRA 1273.

The appellants contest the sufficiency of the claims filed with the arrastre operators under the provisions of paragraph 15 of the Management Contract. It is pointed out that the provisional claim filed on September 21, 1962 was speculative because it did not state the nature or extent of the shortage or damages supposedly suffered by the shipment.

The pertinent provision of paragraph 15 of the Management Contract reads:

" * * * in any event the CONTRACTOR shall be relieved and released of any and all responsibility or liability for loss, damage, misdelivery and/or nondelivery of goods, unless suit in the court of proper jurisdiction is brought within a period of one (1) year from the date of the discharge of the goods, or from the date when the claim for the value of such goods have been rejected or denied by the CONTRACTOR, provided that such claim shall have been filed with the CONTRACTOR within fifteen (15) days from the date of discharge of the last package from the carrying vessel."

In a long line of decided cases, We have ruled that such theory as advanced here by the appellants is untenable, because "(1) it assumes that the claim must state the value of the goods, which the above-quoted paragraph does not require; and (2) a provisional claim may be sufficient, even if the value of the goods involved is not stated therein, if it describes said goods sufficiently to permit its identification by the arrastre operator and the determination by the latter of the facts relevant thereto, such as the name of the carrying vessel, its date of arrival, the corresponding bill of lading or other shipping documents in which the value of the goods is set forth, etc., while the facts are still fresh in the minds of the persons who took part in the transaction and while the pertinent documents are still available." (*Filipro, Inc. vs. Manila Port Service*, 25 SCRA 457; *Philippine Education Co. vs. Manila Port Service*, 42 SCRA 31, and cases cited).

The provisional claim in this case, which we deem sufficient under the foregoing criterion, is as follows:

"9-20-62

EASTERN BROKERAGE CO., INC.
163 Dasmariñas St., Manila

Claim Department
PROVISIONAL CLAIM
No. 623096
Sep 21 1962

Messrs. MANILA PORT SERVICE
Manila

Vessel "MARIT MAERSK" Reg. No. 1351
Consignee: SECURITY AUTO SUPPLY

Gentlemen:

Please be advised that the merchandise herein below noted has been SHORTLANDED and/or LANDED IN BAD ORDER, ex the above-mentioned vessel and/or SHORTDELIVERED and/or DAMAGED while in the

custody of the Arrastre Contractors and therefore, this Provisional Claim in the amount of P7,000 is hereby filed.

B/L No. Mark & Nos. No. of Pkges. Contents

10 Sec. Auto N6220 Manila 1/7 7 CSS. Truck Engine Parts

It is respectfully requested that investigation be made immediately in order to determine the extent of losses.

Very truly yours,

/Ic

EASTERN BROKERAGE CO., INC.
(c.b. for the above consignee)

By:
(Sgd.) Illegible"

In the same case of *Filipro, Inc. vs. Manila Port Service*, supra, we stated further:

"Thus, in *Domestic Insurance Co. vs. Manila Railroad Co.*, we explicitly declared that '* * * The circumstances that the provisional claim did not specify the value of the loss' does not detract from the fact that said claim 'still substantially fulfills the requirements of the contract afore-mentioned (*State Bonding & Insurance Co. vs. Manila Port Service*, supra), and is not a defense against the claim of the consignee for recovery after it shall have ascertained later its actual loss or damage. * * * '"

As to the extent of appellants' liability for the goods damaged or lost in its custody, paragraph 15 of the Management Contract provides that said liability shall be limited to the "invoice value of each package but which in no case shall be more than five hundred pesos (P500.00) for each package unless the value is otherwise specified, and the corresponding arrastre charges had been paid, * * * ." In the case at bar it is admitted that the arrastre fees on the subject shipment were paid on the basis of weight and measurement, whichever was greater, and not on the value thereof. The records do not show that the value of the goods in question was specified or manifested in the corresponding documents. Accordingly, the liability of the arrastre operator should be limited to the invoice value of each package, which may in no case exceed P500.00 (*Philippine Education Company*, supra). Since there is no dispute that the aggregate invoice value of packages No. 3, 4, and 7 is P1,256.19 and the maximum recoverable value for package Nos. 2 and 5 at P500.00 each is P1,000.00, the total recoverable amount is P2,256.19 and not P3,670.46 as adjudged by the trial court.

With reference to the propriety of the award of attorney's fees, we have observed in another case that "* * * (a)ppellant (*Manila Port Service*) has been systematically rejecting claims of the kind shown at bar, as attested by numerous decisions of this Court in this and past years. Such conduct renders the award of attorney's fees just and equitable and the objection (thereto) must be rejected." (*Philippine Education Company vs. Manila Port Service*, supra, and cases cited).

WHEREFORE , the decision appealed from is modified by reducing appellants' liability to P2,256.19, and affirmed in all other respects. Without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, Ruiz Castro, Fernando, Teehankee, Makasiar, and Antonio, JJ., concur.

Barredo, J., took no part.

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