

**MANILA PORT SERVICE AND/OR MANILA RAILROAD COMPANY,
PETITIONERS, VS. COURT OF APPEALS AND ALFONSO DE LA PAZ,
RESPONDENTS.***G.R. No. L-22986. July 29, 1969*

Ponente: CAPISTRANO, J.

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Appeal by certiorari from the judgment of the Court of Appeals in CA-G.R. No. 30541-R.

Alfonso de la Paz, a Filipino old-timer in the United States who had worked there as an employee of the Pullman Railroad Company, retired from his job and decided to come home to the Philippines. In the United States he bought a Page 7 MP tractor with six different attachments, namely, a plow, row seeder, cultivator, spite tooth barrow, disc attachments, and a furrower. He had the tractor and the attachments crated in one big wooden case and loaded on board the vessel SS Fernpoint. The vessel arrived at the Port of Manila on July 6, 1960, and the shipment was un-loaded on July 7, 1960. The Manila Port Service, arrastre operator for the Port of Manila, signed, through its re-ceiving checker, a bad cargo receipt. What was done to the cargo afterwards is unknown; but the evidence shows that it was left on the dock and was never found again. De la Paz, through his broker, the Medalla Brokerage, cleared the papers for the release of the cargo, paid the arrastre charges in the amount of P15.19, as well as the customs duties, and secured the delivery permit. However, the Manila Port Service, to which the delivery permit was presented, could not deliver the cargo. On July 21, 1960, the broker filed a provisional claim with the Manila Port Service, which thereafter informed De la Paz that his claim was under "careful consideration." Later, on August 16, 1960, a formal claim was filed with the Manila Port Service. In view of the refusal of the Manila Port Service to pay his claim, De la Paz, on January 3, 1961, filed with the Court of First Instance of Rizal a complaint (amended on January 26, 1961) against the Manila Port Service and/or the Manila Railroad Company, of which the former is a subsidiary, praying the court to order either or both of the defendants to pay him the sum of P8,000.00, the alleged value of the lost shipment, P5,500.00 moral damages, P3,000.00 attorney's fees, and the costs of the suit.

After trial the court rendered judgment ordering either or both of the defendants to pay the plaintiff the sum of P4,556.90 as the total manifested actual value of the cargo, with interest thereon at the legal rate from the date of filing of the complaint, P2,000.00 as moral and exemplary damages, P1,500.00 as attorney's fees, and the costs.

On appeal by the defendants to the Court of Appeals, said court modified the judgment of the trial court by eliminating the award of P2,000.00 in favor of the plaintiff as moral and exemplary damages. Hence this appeal by the defendants.

The first question we are called upon to resolve is whether a valid claim had been filed by De la Paz with the Manila Port Service in accordance with paragraph 15 of the management contract entered into by and between the Manila Port Service and the Bureau of Customs, which contract is conceded by De la Paz to be binding upon him. The pertinent portion of said paragraph 15 states:

"* * * [I]n any event the CONTRACTOR shall be relieved and released from any and all responsibility or liability for loss, damage, misdelivery, and/or non-delivery of goods, unless suit in the court of proper jurisdiction is brought within a period of one year from the date when the claim for the value of such goods has been 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. * * *."

Petitioners claim that since the cargo was unloaded from the vessel on July 7, 1960 and the corresponding claim for its value was filed only on August 16, 1960, no claim for value had been filed within 15 days from the date of discharge of the cargo from the carrying vessel. They contend that the provisional claim filed on July 21, 1960 was not a "claim for the value" of the goods within the meaning of paragraph 15 because it did not state the value of the cargo but merely advised the Manila Port Service that the package had been short landed or landed in bad order, without stating the nature or extent of the loss. The contention is unmeritorious. The provisional claim filed by De la Paz through his broker contained data showing, among others, the owner and nature of the shipment, the name of the carrying vessel, the re-gistry number of the shipment, the number of the bill of lading covering the shipment, and the consignee's reason for making the claim. In *Filipro, Inc. vs. Manila Port Service and/or Manila Railroad Company*, L-25724, October 8, 1968, this Court, resolving a similar question, said that paragraph 15 of the management contract does not require the value of the goods to be stated in the claim; and that a provisional claim is sufficient "even if the value of the goods involved were not stated therein, if it describes said goods sufficiently to permit its identification by the 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. * * *." And in *Atlantic Mutual Insurance Company, et al. vs. Manila Port Service and/or Manila Railroad Company*, L-21907, April 29, 1966, this Court, resolving the same question of whether a provisional claim in which the value of the shipment did not appear and which was not accompanied by supporting papers, filed within 15 days, sufficiently protected the rights of the consignee, ruled in the affirmative. It is therefore clear that the provisional claim filed by De la Paz through his broker was sufficient.

Petitioners next contend that even assuming that a valid claim was filed by De la Paz, their liability for the lost shipment should be limited to P500.00 in accordance with paragraph 15 of the management contract, the pertinent portion of which reads:

"* * * [T]he CONTRACTOR shall be solely responsible as an independent contractor for, and promptly to pay to the steamship company, consignee, consignor or other interested party or parties 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 or manifested, and the corresponding arrastre charges had been paid * * *."

The contention is untenable. The Court of Appeals correctly considered the phrase "otherwise specified," appearing in paragraph 15 of the management contract, as permitting specification of the value in such documents as the import entry and the internal revenue declaration. In *Northern Motors, Inc. vs. Prince Line, et al.*, L-13884, February 29, 1960, this Court said:

"* * * [T]he consignee has it in his hands to hold, if he so wishes, the arrastre operator responsible for the full value of his merchandise by merely specifying it in any of the various documents required of him (pursuant to Sections 1267, 1268[b], and 1273 of the Revised Administrative Code), in clearing the merchandise from the customs. * * *."

In *Jose Bernabe & Co., Inc. vs. Delgado Brothers, Inc.*, L-14360, February 29, 1960, this Court said:

"In answer, it may be stated that appellant could adequately protect itself, by simply specifying or manifesting the actual value of the imported cargo in the various documents required of it under the law (import entry [Sec.

1267, Rev. Adm. Code]; written declaration [Sec. 1268-b, in connection with Secs. 1269 and 1271, Rev. Adm. Code]), and paying the corresponding arrastre charges of the same, pursuant to the provisions of said Paragraph 15, and the 'Important Notice' contained in the Delivery Permit and Gate Pass which its representative or broker accepts, signs, and utilizes, upon taking delivery of the imported cargo from appellee arrastre operator, in which event, the latter expressly binds itself and undertakes to reimburse appellant the actual value of the cargo, in case of its damage, destruction, or loss while under its custody. If appellant failed to so state the value of its merchandise in any of those documents required by law before it cleared its goods, and paid only the arrastre charge based on a lesser value, it can not in justice now demand the full undeclared value."

While it is true that the corresponding charges should be paid by the consignee to the arrastre operator, and that in the present case the amount paid by De la Paz to the arrastre operator was only P15.19, which petitioners claim was based on the volume rather than on the actual value of the cargo, in the absence of showing that De la Paz was re-quired to pay more but refused to do so, the Court of Appeals was correct in sustaining respondent's claim that he paid only what he was required by the Manila Port Service to pay. We therefore agree with the trial court and the Court of Appeals that petitioners are liable to respondent for the amount of P4,556.90 appearing in the import entry and internal revenue declaration as the total manifested landed cost of the lost cargo, and not merely for the amount of P500.00.

PREMISES CONSIDERED, the judgment appealed from is affirmed, with costs against petitioners in this instance.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

Zaldivar, J., took no part.

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