

ALFREDO VILLARUEL, PLAINTIFF-APPELLEE, VS. MANILA PORT SERVICE, ET AL., DEFENDANTS, MANILA PORT SERVICE AND MANILA RAILROAD COMPANY, DEFENDANTS-APPELLANTS.*G.R. No. L-22535. March 28, 1968*

Ponente: ZALDIVAR, J.

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On January 18, 1962, a shipment of one tractor (Hyster D7L, Tractor Donkey), consigned to appellee Alfredo Villaruel, was unloaded from the M/S "Eastern Ga-laxy", with freight and other charges in the total amount of \$357.08 actually paid to the carrier. This tractor was bought from the Pacific Trade & Surety Co., Inc. of San Francisco, California. The price of \$10,381.00 was paid through the letter of credit FMC No. 1122 drawn by the Philippine Commercial and Industrial Bank, Manila. The shipment was unloaded to the custody of the Manila Port Service, a subsidiary of the Manila Railroad Company, which was the arrastre operator in the port of Manila. The value of the shipment was not specified in the bill of lading nor in the inward manifest of the carrier.

On January 24, 1962, having been notified of the arrival of the shipment, the appellee filed a provisional claim with the Manila Port Service for the value of the shipment pursuant to section 15 of the management contract entered into between the Bureau of Customs and the Manila Port Service. On February 20, 1962, appellee's broker tried to secure the delivery of the shipment from the Manila Port Service under authority of the warehouse permit No. 9098, but the shipment could not be located and so no delivery could be made. On March 2, 1962, in order to comply with the requirements for the release of the shipment and to enable the Bureau of Customs to compute the duties, taxes and other charges based on the cost, insurance and freightage, the appellee filed an application for marine insurance on the shipment with the Agricultural Fire Insurance & Surety Co., Inc. Not knowing that the shipment had already arrived, the Agricultural Fire Insurance & Surety Co., Inc. issued a marine insurance policy on March 3, 1962, covering the shipment, and it appeared in the policy that the value of the shipment was P20,917.72.

On March 24, 1962, the Manila Port Service collected from the appellee the amount of P40.50 as fees for the arrastre service, based on measurement and/or weight of the shipment. On May 18, 1962, the Manila Port Service issued a certificate stating that the shipment was lost or missing while it was under its custody. On October 23, 1962, the appellee filed with the Manila Port Service a formal claim for the value of the shipment and the freight charges thereof. The Manila Port Service and/or Manila Railroad Company did not act - either to admit or reject - on appellee's provisional claim of January 24, 1962 nor on the formal claim of October 23, 1962, and neither was payment made to the appellee for the value of the tractor. On August 1, 1962, the appellee also filed a formal claim with the Agricultural Fire Insurance & Surety Co., Inc. for the payment of the value of the shipment in accordance with the marine insurance policy covering the shipment, but the claim was denied. In view of the denials of the claims, both by the Manila Port Service and/or Manila Railroad Company and by the Agricultural Fire Insurance & Surety Co., Inc., the appellee brought an action against these entities in the Court of First Instance of Manila on March 6, 1963 (Civil Case No. 53301).

After the submission of documentary evidence by the parties, in addition to the stipulation of facts, the Court of First Instance of Manila, on December 23, 1963, rendered a decision ordering the Manila Port Service and Manila Railroad Company to pay appellee Alfredo Villaruel the sum of TWENTY THOUSAND SEVEN HUNDRED SIXTY-TWO (P20,762.00) PESOS representing the value of the lost shipment, and the sum of SIX HUNDRED FIFTY-FOUR PESOS AND TEN CENTAVOS (P654.10) representing the freight charges on the shipment, both with interest at the legal rate from the date of the filing of the complaint on March 6, 1963 until fully paid, and to pay the costs. The complaint against the Agricultural Insurance & Surety Co., Inc. was dismissed. The counter-claim of the Agricultural Fire Insurance & Surety Co., Inc. against plaintiff Alfredo Villaruel was also dismissed. Likewise, the cross-claim of the Agricultural Insurance & Surety Co., Inc. against the Manila Port Service and/or Manila Railroad Company was dismissed.

Not satisfied with the decision of the lower court, defendants Manila Port Service and Manila Railroad Company appealed directly to this Court, on questions of law.

In the present appeal, appellants Manila Port Service and Manila Railroad Company contend: (1) that the trial court erred in not holding that appellee's complaint is barred pursuant to section 15 of the management contract between the Bureau of Customs and the arrastre operator; and (2) that, assuming that appellee's complaint was filed within the reglementary period, the trial court erred in not holding that appellants' liability, if any, should not exceed P500.00, also pursuant to section 15 of the management contract.

In support of the first contention, the appellants invoke the pertinent portion of section 15 of the management contract which provides as follows:

""x x x in any event the CONTRACTOR shall be relieved and released of any and all responsibility or liability for loss, damage, mis-delivery and/or non-delivery 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 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 the discharge of the last package from the carrying vessel. x x x""

The appellants point out that the shipment in question was discharged from the carrying vessel on January 18, 1962, and the appellee filed his complaint only on March 6, 1963, or more than one year after the discharge of the shipment. The appellants also point out that the claims of the appellee - the provisional claim of January 24, 1962 and the formal claim of October 23, 1962 - were not acted upon by the appellants Manila Port Service and Manila Railroad Company. Then said appellants maintain that appellee's complaint was barred under the provisions of section 15 of the management contract because of his failure to file the complaint within one year from the date of the discharge of the shipment.

It is the position of the appellants that under section 15 of the management contract the claimant - appellee in the present case, has the choice of one of two periods within which to file the complaint, namely: (1) within one year from the date of the discharge of the goods, without waiting for the action on the claim; or (2) within one year from the date of the rejection or denial of the claim. With respect to the second period, the appellants maintain that this (second) period may only be availed of if the arrastre operator had rejected or denied the claim, because the rejection or denial is a condition sine qua non before the claimant may bring suit, and that the rejection or denial must always take place within one year from the date of the discharge of the goods. And so, in the case at bar, it is the contention of the appellants that because the shipment was discharged on January 18, 1962, and the claims of the appellee had not been acted upon by the arrastre operator within the one-year period from January 18, 1962, the appellee should have filed his complaint on or before January 18, 1963. The appellants, therefore, claim that appellee's complaint, which was filed on March 6, 1963, was already barred.

The contention of the appellants cannot be sustained. It is now the settled ruling of this Court, in a series of recent decisions, that when the arrastre operator fails to act on the claim within the period of one year from the date of the discharge of the goods the claim is deemed rejected as of the expiration of one year from the date of discharge of the last package, in which case the action should be filed within one year from said rejection.^[1] The procedure under section 15 of the management contract may, therefore, be restated, as follows: the claimant must file a claim with the arrastre operator within fifteen days from the date of the discharge of the last package from the carrying vessel; and then he may choose one of two alternatives in enforcing his rights before the courts, either (1) to file his complaint within one year from the date of the discharge of the last package, without awaiting the action of the arrastre operator on his claim; or (2) to await the action of the arrastre operator on his claim, and if the claim is rejected or denied, to file the complaint within one year from the date of the rejection or denial, it being understood that if the claim has not been acted within one year from the date of the discharge of the last package the claim is deemed rejected.

In the case now at bar the shipment was discharged from the carrying vessel on January 18, 1962, and the appellee filed a provisional claim on January 24, 1962, well within the reglementary period of fifteen days as provided in section 15 of the management contract, and also a formal claim on October 23, 1962, and those claims were not acted upon by the appellants as of January 18, 1963, so that the claim of the appellee was deemed rejected as of January 18, 1963. The appellee, therefore, had a period of one year from January 18, 1963 within which to file his complaint. Inasmuch as the complaint was filed on March 6, 1963, it is clear that said complaint was filed on time.

The other point raised by the appellants is the alleged error committed by the lower court in not holding that the liability of the appellants, if any, should not exceed P500.00 in accordance with section 15 of the management contract. The pertinent portion of section 15 of the management contract, invoked in this connection by the appellants, reads as follows:

"Sec. 15. x x x and the CONTRACTOR shall be solely responsible as an independent contractor for, and promptly pay to the steam-ship 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 value is otherwise specified or manifested and the corresponding arrastre charges had been paid. x x x"

Appellants contend that since the value of the shipment is question was not specified in the bill of lading or in the shipping manifest and that appellee paid arrastre charges only on the basis of measurement or weight, their liability for said shipment, if any, should be limited to P500.00. The lower court found, however, that on March 2, 1962, or before the amount of P40.50 was collected by the appellant Manila Port Service from the appellee as arrastre charges on the shipment, appellee filed with the Agricultural Fire Insurance & Surety Co., Inc. an application for marine insurance covering the shipment - which insurance policy was issued on March 3, 1962 - in order to comply with a condition required for the release of the shipment and to enable the Bureau of Customs to compute the taxes and other legal charges on the shipment based on the value of the goods, insurance and freight; so much so that when appellant Manila Port Service collected the arrastre service fee of P40.50 on March 24, 1962, said appellant already knew the value of appellee's shipment, and said appellant could have collected from the appellee the corresponding arrastre charges based on the value of the shipment as appearing in the insurance policy.

We agree with the lower court when it said "that the submission of the marine insurance policy, Exhibit 'C', to the Bureau of Customs is sufficient compliance with the requirement of Sec. 15 of the Management Contract whereby the liability of the Manila Port Service for lost or destroyed cargo may exceed P500.00 and such liability may be for the value of the shipment by specifying or manifesting such value because the said marine insurance

policy is one of the documents required to be presented by the plaintiff in clearing the merchandize from the customs." [2]

"The provision in par. 15 of the Management Contract limiting the contractor's liability for the loss, destruction or damage of any merchandise to P500 for each package, unless the value is otherwise specified and the corresponding arrastre charges have been paid, is neither unfair nor arbitrary, because the consignee, if he so desires, can make the arrastre operator responsible for the full value of his merchandise by merely specifying it in any of the various documents required of him in clearing the merchandise from the customs and paying the corresponding charges on the basis of the declared value." (Jose Bernabe & Co. v. Delgado Brothers, Inc., 58 O.G., 1104)

Indeed, as the lower court has declared, appellant Manila Port Service cannot escape liability for the value of the shipment by its own act of not charging the appellee the corresponding arrastre fees based on the value of the shipment after it came to know of such declared value from the marine insurance policy. Settled is the rule that the value of the merchandise or shipment may be declared or stated not only in the bill of lading or shipping manifest but also in other documents required by law before the shipment is cleared from the piers. [3]

We find, therefore, that the lower court committed no error when it declared the appellants, Manila Port Service and Manila Railroad Company, liable for the payment of the value of the shipment as stated in the marine insurance policy as well as the freight charges on the shipment, it being admitted that the shipment, consisting of a tractor, was lost while it was in the custody of appellant Manila Port Service.

IN VIEW OF THE FOREGOING, the decision appealed from is affirmed, with costs against the defendants-appellants.

IT IS SO ORDERED.

Reyes, Acting C.J., Dizon, Makalintal, Bengzon, Sanchez, Angeles, and Fernando, JJ., concur.

Castro, J., did not take part.

Concepcion, C.J., on official leave.

[1] Continental Insurance Co. v. Manila Port Service, et al., G.R. No. L-22208, March 30, 1966; Delgado Brothers, Inc., et al. v. Manila Port Service, et al., G.R. No. L-21781, June 30, 1966; The American Insurance Co. v. Manila Port Service, et al., G.R. No. L-22780, February 18, 1967.

[2] Record on Appeal, pp. 108-109.

[3] Jose Bernabe & Co., Inc. v. Delgado Brothers, Inc., G.R. No. L-14360, February 29, 1960. See also The Liverpool & London & Globe Insurance Co., Ltd. v. Manila Port Service, et al., G.R. No. L-23338, November 18, 1967.

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