

**ALEX LO KIONG, DOING BUSINESS UNDER THE FIRM NAME OF
LUZON RATTAN INDUSTRIES, PLAINTIFF AND APPELLEE, VS.
UNITED STATES LINES COMPANY, DEFENDANT, MANILA PORT
SERVICE AND MANILA ...**

G.R. No. L-18673. November 29, 1965

Ponente: DIZON, J.

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DIZON, J.:

Appellee Alex Lo Kiong, doing business under the firm name of "Luzon Rattan Industries", was the consignee of three (3) sales of drapery fabrics unloaded from the SS "Pioneer Mill" at the Port of Manila on May 21, 1960. Immediately upon their discharge they were placed under the custody of the arrastre operator of the port, the Manila Port Service - a subsidiary of appellant Manila Railroad Company.

As not one of the three bales was delivered to appellee, his customs broker, Falcon Brokerage Company, after paying the corresponding taxes and arrastre charges therefor, filed a claim for their value - the sum of P3,890.68 - against appellant Manila Port Service, and a similar claim against the United States Lines Company, operator of the SS "Pioneer Mill".

His claim having been denied, appellee instituted the Present action against appellants and the United States Lines Co. to recover the sum of P5,873.63, with interest thereon at the legal rate from the date of the filing of the complaint, and the sum of P1,000.00 as attorney's fees and the costs of suit.

In its answer, the United States Lines Co. claimed full discharge from liability upon delivery of the goods to appellant Manila Port Service, whereas appellants invoked the provisions of the management contract entered into by and between the Bureau of Customs and the Manila Port Service. After trial, the court dismissed the claim against the United States Lines Co. but rendered judgment against appellants ordering them to pay appellee the sum of P3,890.68, with legal interest from the date of filing of the complaint, plus 10% of the principal as attorney's fees and costs. Hence the present appeal.

The main question to be determined is whether or not appellee is bound by the provisions of the management contract entered into between the Bureau of Customs on one hand, and the appellant Manila Port Service on the other, particularly section 15 thereof limiting the latter's liability for loss or destruction of goods or merchandise to P500.00 per package, unless the value thereof is otherwise specified or manifested and the corresponding arrastre charges have been paid on the basis of the value thus declared.

It is not disputed that the Manila Port Service is the arrastre operator for the port of Manila by virtue of the above-mentioned management contract. On the other hand, the binding effect of said contract upon appellee and parties similarly situated was already upheld by Us in *Northern Motors Inc. vs. Prince Line et al.* 107 Phil. 253 where We said, *inter alia*, the following:

"Even, therefore, if appellant was not a signatory to said management contract, it legally became a party

thereto when it (through its broker, the Luzon Brokerage Co., Inc.) obtained the delivery permit and gate pass in the above manner prescribed by law and, making use of them, demanded from appellee the delivery of the 83 cases, pursuant to appellee's undertaking in virtue of the very same Management Contract. Again, it became bound when it brought court action against appellee, also by virtue of the latter's obligations as the arrastre contractor under the same Management Contract, for the purpose of recovering the reasonable value of the missing case of auto spare parts and accessories."

The above ruling applies in full to the present case, it having been established that appellee's broker, Falcon Brokerage Co. Inc., signed and presented all the necessary documents for processing by the Marine Division of the Bureau of Customs; that after payment of the corresponding duties and taxes-due to the government, a delivery permit was issued authorizing the delivery of the shipment to appellee; that upon presentation of the delivery permit and after the tender of payment of the arrastre charges to the Manila Port Service, fixed in accordance with the aforesaid management contract, the following was stamped at the dorsal portion of said delivery permit:

"The permit is presented subject to all the terms and conditions of the management contract between the Bureau of Customs and Manila Port Service and all amendments thereto or alterations thereof particularly but not limited to Paragraph 15 thereof limiting the Company liability to P500.00 per package unless the value of the goods is otherwise specified; declared or manifested and the corresponding arrastre charges have been paid, providing exemptions or restrictions from liability; and releasing the Company from liability unless suit is brought within one (1) year from the date of discharge of the goods or from the date when the claim for the value of the goods have been rejected, provided, such claim shall have been filed with the Company within fifteen (15) days from of discharge of the last package from the carrying vessel."

In relation to the limited liability clause in the management contract, it must be borne in mind that said contract provides that for a consignee or importer to be exempt from the operation of said clause and be entitled to claim the full value of the lost shipment, he must have declared the value or nature of the imported goods in the cargo manifest of the carrying vessel and in the bill of lading and must have paid the arrastre charges computed on the basis of such value. In the present case, appellee paid only the sum of P7.72 as arrastre charges because the same were computed not on the basis of the declared value and nature of the imported goods but on the cubic measurement of the bales containing them.

In view of all the foregoing, the decision appealed from is modified first, by limiting the liability of appellants to the sum of P500.00 for each one of the three packages or bales involved in this case, and second, by eliminating therefrom the attorney's fees and costs awarded to appellee. No special pronouncement as to costs.

Bengzon, C. J., Concepción. Reyes, J. B. L., Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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