

**NORTH BRITISH & MERCANTILE INSURANCE CO., LTD.,
PLAINTIFF-APPELLANT, VS. ISTHMIAN LINES, INC., INTERNATIONAL
HARVESTER MACLEOD, INC., REPUBLIC OF THE PHILIPPINES
AND/OR BUREAU O...**

G.R. No. L-26237. July 10, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Sixty-one packages of medicine were shipped on July 31, 1963 from New York, destination Manila, by Universal Transcontinental Corporation on SS "Steel Recorder" operated by Isthmian Lines, Inc. Fifty-nine packages were delivered to the Customs Arrastre Service which in turn delivered the same to the consignee Squibb-Mathieson International Corporation in Manila.

Although the two other packages, overcarried to Singapore and re-shipped to Manila, were delivered to the Customs Arrastre Service - one package in good order condition and one package in bad order condition, the latter never delivered these to the consignee.

Consequently, the consignee filed its claim for the loss amounting to P4,474.71 from the Customs Arrastre Service and the North British & Mercantile Insurance Company, Ltd., as the insurer of the cargo.

North British & Mercantile Insurance Company, Ltd., having been subrogated to the consignee's rights after payment of the latter's claim, and invoking the admiralty jurisdiction of the Court of First Instance of Manila, filed an amended complaint before the court, suing Isthmian Lines, Inc. through its Philippine agent International Harvester Macleod, Inc., and the Republic of the Philippines and/or Bureau of Customs as the operator of the arrastre service, asking for P4,474.41 plus P1,000.00 attorney's fees.

Subsequently, however, after the defendants denied liability, with the Bureau of Customs alleging non-suability, Isthmian Lines, Inc. and International Harvester Macleod, Inc. amicably settled with the plaintiff, leaving as the only defendant of the case, the Republic of the Philippines and/or the Bureau of Customs.

On November 16, 1965 the Court of First Instance dismissed the complaint, declaring that the Republic of the Philippines cannot be sued without its consent and the Bureau of Customs, as its agency, has no capacity to sue or be sued.

The appeal before Us questions the finding of non-suability of the Republic of the Philippines and the Bureau of Customs as arrastre operator.

We find that in *Mobil Philippines Exploration, Inc. v. Customs Arrastre Service and/or Bureau of Customs*, L-23139, Dec. 17, 1966, We have already disposed of herein plaintiff-appellant's contention. Suffice it therefore to reiterate that: As an instrument of the national government, the Bureau of Customs, as arrastre operator, is immune from suit for damages regardless of the merits of the claims against it, for obvious reasons of public

policy.

WHEREFORE, the judgment appealed from is affirmed, without costs.

SO ORDERED.

Reyes, JBL, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on official leave.

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