

**FIREMEN'S INSURANCE COMPANY, PLAINTIFF-APPELLANT,
VS. REPUBLIC OF THE PHILIPPINES AND/OR BUREAU OF CUSTOMS
AND/OR CUSTOMS ARRASTRE SERVICE; IN THEIR CAPACITY AS
ARRASTRE OPERATO...**

G.R. No. L-25784. October 23, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

A shipment from New York of ninety seven (97) cartons yarn of continuous acetate filamen tow was discharged by the carrier SS "Eurygenes" into the custody of the Bureau of Customs which was then operating the Customs Arrastre Service. However, only 76 cartons were delivered to the ultimate consignee, the Synthetic Textile Manufacturers' Company Inc. The 21 cartons loss, worth P11,700.04 was paid by the Firemen's Insurance Company as insurer of the cargo against loss or damage. Having failed as subrogee to the consignee to recover from the Bureau of Customs, the Firemen's Insurance Company on September 7, 1965 filed before the Court of First Instance of Manila an action against the Republic of the Philippines, the Bureau of Customs and the Customs Arrastre Service for the recovery of P11,700.04 with legal interest plus P2,500.00 attorney's fees and costs.

The defendants moved to dismiss the complaint on the ground that the court had no jurisdiction over the defendants because the Republic of the Philippines itself may not be sued without its consent and also because the Bureau of Customs as well as the Customs Arrastre Service, being mere governmental agencies, do not have juridical personalities to sue or be sued. Also alleged was the fact that being a money claim, the same could have been filed before the Auditor General according to Act 3083, as amended by Commonwealth Act 327.

Over the objections of the plaintiff, the Court of First Instance of Manila, finding the motion to be meritorious, dismissed the case.

After denial of its motion for reconsideration, the plaintiff appealed from the order of dismissal.

The appeal cannot prosper. It is now settled that the Bureau of Customs and the Customs Arrastre Service are mere agencies of the Republic of the Philippines thru it performs the prime governmental function of taxation. A necessary incident to such a function is the arrastre service which though deemed proprietary in nature, does not subject the defendants to suit; otherwise, they would be hampered in the performance of a prime governmental function. The Republic of the Philippines, or its aforesaid agencies, therefore, are not subject to suit without its consent, for said arrastre operations. The present claim for money should instead have been filed before the office of the Auditor General in accordance with the procedure set forth in Act 3083, as amended by Commonwealth Act 327. Since the instant claim is for a fixed amount based on papers and documents within easy reach of accounting officers, the same differs from unliquidated claims outside the Auditor General's power to consider (*Insurance Company of North America v. Republic*, L-27517, September 15, 1967).

WHEREFORE, the order of dismissal appealed from is affirmed, without costs.

SO ORDERED.

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

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