

YAP TECK SUY, PLAINTIFF-APPELLEE, VS. MANILA PORT SERVICE, ETC., ET AL., DEFENDANTS, MANILA PORT SERVICE AND MANILA RAILROAD COMPANY, DEFENDANTS-APPELLANTS.

G.R. No. L-24677. May 29, 1968

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Ordered by the City Court of Manila to pay to plaintiff Yap Teck Suy the sum of P3,111.96, for the loss of 594 pieces of automobile main leaf springs, discharged from the vessel "S.S. Ninny Figari" unto the custody of the arrastre operator, Manila Port Service, and the amount of P200.00 as attorney's fees, the defendants Manila Roadroad Company and its subsidiary the said Manila Port Service, appealed to the Court of First Instance of Manila (Civil Case No. 53672). Thereat, the parties[1] entered into the following stipulation of facts:

"1. That the parties hereto manifest that they are submitting to this Court the same documentary evidence which the plaintiff and the defendants (except Bradman & Co.) had previously offered to the City Court of Manila in Civil Case No. 82441.

"2. That what was delivered to plaintiff at Cebu was all that was received by Cia. Maritima from the Manila Port Service at Manila; that is, 806 pieces of automobile main leaf springs.

"3. That the entire shipment of 1,400 pieces of leaf springs had been delivered by the Ninny Figari unto the Manila Port Service.

"4. That plaintiff had duly filed a provisional claim for the missing goods with Manila Port Service on December 7, 1959, although the details were contained in the formal claim submitted by plaintiff to Manila Port Service on December 24, 1960; that the vessel arrived at Manila on Nov. 18, 1959 and made the last discharge of the package on November 22, 1959.

"5. That the amount of P3,111.96 mentioned in the complaint is based on the actual exchange value of the dollar to peso (at the rate of \$1 to P4.04; that the plaintiff manifests that if the value of the undel-ivered shipment (\$772.20) is converted at the rate of \$1 to P2.02 (official rate then), the claim amounts to P1,550.98.

"6. That negotiations were conducted by the parties for the amicable settlement of the case; that the plain-tiff was willing to consider himself satisfied of his claim if he is paid P1,550.98;

"7. That the parties leave the question of attorney's fees and costs to the court's discretion."

Based upon said stipulation, the Court of First Instance rendered judgment on January 15, 1965, holding defendants Manila Railroad Company and Manila Port Service liable for the loss of the missing goods and ordering them to pay to plaintiff damages in the sum of P1,550.98 and P300.00 as attorney's fees. The other defendants Bradman & Co. and Compañia Maritima were freed from any liability.

From this decision, defendants appealed to this Court contesting the sufficiency of the provisional claim filed by the plaintiff to support the ruling on their liability for damages to the latter, under paragraph 15 of the arrastre

Management Contract. It is appellants' contention that the provisional claim, which did not specify the value of the particular item or items short-landed, was nothing more than a notice of an anticipated loss of or damage to the cargo, and not a "claim for value" as required in the aforecited paragraph 15 of the Management Contract.

This contention of defendants-appellants has been repeatedly raised before, and rejected by this Court in a long line of decided cases.[2] And we have consistently declared that the presentation of a provisional claim within the required 15-day period, although such claim does not state the exact value of the missing or damaged merchandise nor is supported by proper documents, constitutes substantial compliance with the requirement of paragraph 15 of the Management Contract, for it already affords the arrastre operator reasonable opportunity to check on the validity of the demand, while the facts are still fresh in the minds of the persons who took part in the transaction and the pertinent papers are available. In the present case, there is no showing that the provisional claim, which was timely filed, prevented verification by appellants of the truthfulness of plaintiff's allegations of loss. For the purpose of placing the arrastre operator upon inquiry, the value of the merchandise is unessential.

There is similarly no reason to set aside the lower court's awards to plaintiff of damages in the sum of P1,550.98, for the loss of a portion of his imported goods, and for attorney's fees in the amount of P300.00. The first amount is justified under the stipulation of the parties submitted to and approved by the court below (No. 6); while the second was not only provided for in the same stipulation (No. 7), which the court reasonably fixed at P300.00, but also warranted by appellant's persistence in maintaining a clearly untenable suit.[3]

FOR THE FOREGOING CONSIDERATIONS, the decision appealed from is hereby affirmed, with costs against defendants-appellants.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.

[1] The Bradman & Co., as agent of the carrier "S.S. Ninny Figari" and Compañia Maritima, as operator of the interisland vessel M/V Samar where the merchandise was shipped from the port of Ma-nila to Cebu, were also made parties defendant.

[2] Firemen's Ins. Co. vs. Manila Port Service, L-22810, Aug. 31, 1967; State Bonding & Ins. Co., Inc. vs. Manila Port Service, L-23715, Oct. 30, 1967; Philippine Education Co. vs. Manila Port Service, L-23811, Oct. 30, 1967; Liverpool & London & Globe Ins. Co., Ltd. vs. Manila Port Service, L-23338, Nov. 18, 1967, and the many cases cited therein.

[3] Philippine Education Co. vs. Manila Port Service, *supra*.

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