

INSURANCE COMPANY OF NORTH AMERICA, PLAINTIFF-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES AND CUSTOMS ARRASTRE SERVICE, DEFENDANTS-APPELLEES.

G.R. No. L-27517. September 15, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Allied Manufacturing & Trading Company, Inc. imported fifteen (15) cases of Harting voltage regulators, Purolator filters and Wippermann timing chains. On or about June 26, 1964, the shipment was discharged by SS "Glen-garry" unto the custody of the, Customs Arrastre Service of the Bureau of Customs. However, only fourteen cases were later delivered to the consignee. As insurer of the shipment "against all risks", the Insurance Company of North America paid the consignee P4,469.80 - the value of the case lost. As subrogee to the consignee, the Insurance Company sought to recover from the Customs Arrastre Service said amount.

Having been denied recovery, the Insurance Company of North America on June 26, 1965 filed before the City Court of Manila an action against the Republic of the Philippines as arrastre operator and the Customs Arrastre Service as the entity through which the former operated, praying for the recovery of P4,469.80 with legal interest, attorney's fees plus costs.

The City Court and on appeal the Court of First Instance of Manila, on November 25, 1966, ordered the defendants to pay plaintiff P4,469.80 despite defendants' allegations of non-suability and denial of liability. However, in view of this Court's ruling in *Mobil Philippines Exploration, Inc. v. Customs Arrastre Service and Bureau of Customs*, L-23139, December 17, 1966, declaring the non-suability of the Customs Arrastre Service and the Bureau of Customs, the Court of First Instance on January 7, 1967 set aside its decision of November 25, 1966 and dismissed the case. After the denial of its motion for reconsideration, the plaintiff has appealed to Us on the ground that the Mobil case is not applicable because there, only the Customs Arrastre Service and the Bureau of Customs were declared as not suable; the Republic, a party defendant herein, was not included in the Mobil suit; and appellant contends that the Republic has personality to be sued.

The appeal is untenable. The Republic, in doing arrastre operations through the Bureau of Customs or the Customs Arrastre Service, performs a necessary incident of the primary governmental function of assessment and collection from importations, of lawful revenues, tariff and customs duties, fees, charges, fines and penalties. As such, the Republic is immune from suit without its consent for said operations.

The propriety of the application of Commonwealth Act 327 providing for money claims against the government to be filed against the Auditor General, has already been disposed of by Us in an extended resolution denying the motion for reconsideration, in *G.R. No. L-26532, Insurance Company of North America, v. Republic*, August 30, 1967. Contrary to appellant's concept, claims of this nature do not appear to be unliquidated, for their amounts are fixed or can fairly and easily be determined from readily accessible papers and records of the shipments. And the fact that the liability of the Government for a liquidated claim is at issue does not alone convert said claim into

and unli-quidated one.

WHEREFORE, the dismissal order is hereby affirmed, with costs against appellant.

SO ORDERED.

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

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