

**CHAMPION AUTO SUPPLY CO., INC., PLAINTIFF-APPELLANT, VS.
BUREAU OF CUSTOMS, IN ITS CAPACITY AS OPERATOR OF THE
CUSTOMS ARRASTRE SERVICE, DEFENDANTS-APPELLEES.**

G.R. No. L-26287. April 27, 1972

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal from the decision of the Court of First Instance of Manila in its Civil Case No. 60371, dismissing the complaint for insufficiency of evidence to support a judgment against the defendant.

On March 25, 1965 the plaintiff, Champion Auto Supply Company, Inc., filed a complaint in the court a quo against the Bureau of Customs in its capacity as operator of the Customs Arrastre Service in the Port of Manila, alleging inter alia: that on or about September 14, 1963 the SS "Yakal" of the Philippine Ace Line took on board at Yokohama, Japan, a shipment of eight (8) bundles of cone and oil pump assembly consigned to the plaintiff; that the vessel arrived at the port of Manila on September 27, 1963 and discharged said shipment, complete and in good order, into the custody of the defendant Customs Arrastre Service; that due to the inexcusable negligence of the defendant three (3) packages were lost and two (2) bundles were short-delivered, pilfered and/or lost, causing damages to the plaintiff in the sum of P10,094.25; and that notwithstanding repeated demands, the defendant failed and refused to pay for the loss thus sustained by the plaintiff. The plaintiff prayed that the defendant be ordered to pay the said amount, with legal interest thereon, and the sum of P2,500.00 as attorney's fees.

The defendant denied the material allegations in the complaint and set forth several special and/or affirmative defenses, among which are that it cannot be sued without its consent and that the court a quo had no jurisdiction to hear the case, which involved a money claim against the government, it appearing that the requirements under Act No. 3083, as amended, had not been complied with.

After the plaintiff presented its evidence the defendant submitted the case for decision and moved for its dismissal on the ground of insufficiency of evidence. Holding that the plaintiff failed to discharge its burden of proving that the shipment had been delivered complete and in good order into the custody of the defendant Customs Arrastre Service by presenting the corresponding cargo or tally sheets, the trial court granted the motion for dismissal. The plaintiff moved to reconsider but was turned down; hence, this appeal.

We need not go into the errors assigned by the appellant involving the merits of its claim and of the appellee's defenses. This appeal cannot prosper in view of the doctrine of governmental immunity from suit without its consent. In *Mobil Philippines Exploration, Inc., vs. Customs Arrastre Service*, L-23139, December 17, 1966 (18 SCRA 1120), this Court held: "The Bureau of Customs, acting as part of the machinery of the national government in the operation of the arrastre service, pursuant to express legislative mandate and as a necessary incident of its prime governmental functions, is immune from suit, there being no statute to the contrary." This ruling has been reiterated in no less than forty cases decided by this Court.

WHEREFORE, the judgment appealed from is hereby affirmed without pronouncement as to costs.

Reyes, J.B.L., Acting C.J., Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, and Antonio, JJ., concur.

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