

RAMCAR, INC., PLAINTIFF-APPELLANT, VS. RAFAEL SUMADCHAT, OPERATOR OF THE R. SUMADCHAT CUSTOMS BONDED WAREHOUSE NO. 258, DEFENDANT-APPELLEE.*G.R. No. L-27693. January 29, 1971*

Ponente: CONCEPCION, C.J.

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Plaintiff, Ramcar, Inc., seeks the reversal of an order of the Court of First Instance of Manila, dismissing the former's complaint "without prejudice to plaintiff's right to file an appropriate action against the proper party."

Stripped of non-essentials, it is alleged in the afore-mentioned complaint that, on or about December 9, 1963, a shipment of 1,390 ingots of 7% antimonial lead, imported by the plaintiff from Jack Hilton (Metals) Pty. Ltd. of Australia, had arrived at Pier 9, South Harbor, Manila; that, without plaintiff's knowledge and consent, 601 ingots valued at P16,000 were taken by representatives of the customs warehouse of defendant Rafael Sumadchat and that, upon demand made by the plaintiff, defendant not only refused to deliver said 601 ingots, but, also, demanded payment of P7,270.85 "supposedly representing storage and other charges due to him as customs warehouseman," despite plaintiff's offer to pay said charges under protest. It is prayed in the complaint that the defendant be ordered to deliver said ingots to the plaintiff, or, else, to pay the sum of P16,000, as the value thereof, with interest at the legal rate, in addition to attorney's fees.

Upon being summoned, the defendant moved to dismiss the complaint. In support of his motion, the defendant averred that, having been imported into the Philippines, the ingots in question were under the exclusive and absolute possession, custody, control and disposition of the Bureau of Customs, pursuant to the Tariff and Customs Code, Republic Act No. 1937, particularly sections 1201, 1202, 1204 and 1206 thereof; that, pursuant to section 604 of said Code, "the Bureau of Customs" moreover, "shall, for customs purposes, have exclusive control, direction and management of custom-houses, warehouses x x x and other premises in the respective ports of entry x x x"; that, by Declaration of Abandonment No. 254-65, made pursuant to section 1802 of the aforementioned Code, the Bureau of Customs had, on December 13, 1965, declared said lead ingots abandoned; that said lead ingots were sold by the Bureau of Customs at public auction, on January 27, 1966, under Sale Lot No. 26; and that, as a consequence, said lead ingots were delivered, on February 7, 1966, to the buyer thereof, one Marcelo S. Cruz, in whose favor the Bureau of Customs had authorized the re-lease thereof "through a gate pass issued" by said office.

Acting upon said motion, the lower court dismissed the complaint "without prejudice to plaintiff's right to file an appropriate action against the proper party." Hence, this appeal by the plaintiff who maintains: (1) that, it being conceded that the lead ingots in question had been deposited in defendant's warehouse, defendant is under obligation to deliver the goods to the plaintiff, or, else, to pay the value thereof, plus damages; and (2) that, in passing upon the motion to dismiss, the trial court had no "right to consider facts not alleged and/or discernible from the complaint."

Plaintiff has not contested, however, the facts upon which the motion was predicated.[1] Pursuant thereto, upon arrival at the port of Manila, coming from Australia, from which they had been imported by the plaintiff, the lead ingots in question were by law under the possession, custody, control and disposition of the Bureau of Customs. They were stored by the Customs Arrastre Service - an agent of said Bureau - in defendant's warehouse, which is, likewise, sub-ject to the control, direction and management of said office. The latter, in turn, in the exercise of its functions under the law; subsequently declared the lead ingots abandoned, later sold them at public auction to the highest bidder, Marcelo S. Cruz, and then caused the lead ingots to be delivered to him.

Considering that there is no contractual relation between the plaintiff and the defendant, and that the latter had held and later released the lead ingots under the authority and by order of the Bureau of Customs, the validity of the acts of which has not been impugned, it is clear that plaintiff has no cause of action against the defendant.

This appeal being patently devoid of merit, the order appealed from is hereby affirmed, with treble costs against plaintiff-appellant, Ramcar, Inc.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] *Ruperto v. Fernando*, 83 Phil. 943, 944-945; *Canite v. Madrigal*, L-17836, Aug. 30, 1962; *Saguinsin v. Lindayag*, L-17759, Dec. 17, 1962; *Solanco v. Ramos*, L-20408, April 27, 1967.

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