

**DOMESTIC INSURANCE COMPANY OF THE PHILIPPINES,
PLAINTIFF?APPELLANT, VS. BARBER LINE, MACONDRAY & CO.,
INC. AND/OR REPUBLIC OF THE PHILIPPINES,
DEFENDANTS?APPELLEES.**

G.R. No. L-23879. November 18, 1967

Ponente: ANGELES, J.

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ANGELES, J.:

In this case, the Republic of the Philippines, as operator of the arrastre service, through the Bureau of Customs, has been named as alternative de-fendant in a suit for money filed by the Domestic Insurance Company of the Philippines as insurer-subrogee of cargo, to indemnify for the nondelivery of part thereof to the consignee.

The complaint alleges that on or about May 17, 1963, the SS Queensville took on board at New York, New York, U.S.A., a consignment of cargo for ship-ment to the Centennial Commercial Corporation, Ma-nila, including three cartons shears, for which the Barber Line (other defendant) issued a Bill of Lading; that said vessel arrived in Manila on June 24, 1963, and, in due course, discharged her cargo into the custody of defendant arrastre operator; that the consignee cleared all the shipping documents cover-ing its cargo through defendants and the Bureau of Customs; but that due to the negligence of the de-fendants, the shipment was found to have sustained losses in the amount of P8,800.92 for certain unde-livered items.

On motion by counsel for the Republic, the court a quo dismissed the case as to it, for the reason that the State is immune from suit without its consent. Hence, the plaintiff has appealed.

Finding for the appellee, We need only to re-iterate what We have declared in similar cases[1] that in operating the arrastre service through the Customs Bureau, the Republic of the Philippines does so as an incident of the prime governmental function of assessment and collection of revenues, tariff and customs duties, fees, etc. from importations, and as such, may not be sued without is consent.

WHEREFORE, the order of dismissal is hereby affirmed, without pronouncement as to costs.

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

[1] Mobil Philippines Exploration v. Customs Arrastre Service, L-23139, Dec. 17, 1966; Insurance Co. of North America v. Republic of the Philippines, L-26532, July 10, 1967; Manila Electric Co. v. Customs Arrastre Service, L-26515, July 24, 1967, and many others.

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