

**AMERICAN MACHINERY & PARTS MANUFACTURING CO., INC.,
PLAINTIFF AND APPELLANT, VS. MANILA RAILROAD COMPANY, ET
AL., DEFENDANTS AND APPELLEES.**

G.R. No. L-21460. April 30, 1966

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

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

Direct appeal, on a question of law, from the decision of the Court of First Instance of Manila, in its Civil Case No. 46086, dismissing, after trial, the complaint of the plaintiff-appellant, American Machinery & Parts Manufacturing Co., Inc., consisting of nine (9) causes of action against the defendants-appellees, Manila Railroad Company and Manila Port Service, for short-delivery of consigned merchandise.

All of the causes of action, except the ninth, which is for attorney's fees, correspond to each claim of the plaintiff against the defendant Manila Port Service, as contractor of arrastre service, and Manila Railroad Company, its mother-company, for the value of each short-delivery in each of the eight (8) shipments of various merchandise landed in the port of Manila and consigned to the plaintiff.

The existence of the shortages and their value were uncontradicted, and the trial court found that the several shipments were unloaded from the carrying vessels without any deficiency and were received by the appellee arrastre-operator, and that the shortages were not due to loss in transit from the pier to the factory of the plaintiff.

The last package of the first shipment was discharged on 30 September 1959 from the SS "Ventura"; plaintiff filed a provisional claim with the Manila Post Service on 22 October 1959, followed by a formal claim on 12 February 1960 for the shortage of 70 pieces of D-7 Carriers, worth P370.25.

The last package of the second shipment was discharged on 11 November 1959 from the SS "Munsen"; plaintiff filed its provisional claim on 24 November 1959, followed by a formal claim on 19 February 1960 for the shortage of 114 pieces of Grouser Plates TD-18-A, worth P98.77.

The claim for the shortage on the third shipment was fully paid.

The last package of the fourth shipment was discharged on 27 October 1959 from the SS "Bayernstein"; plaintiff filed its provisional claim on 13 November 1959, followed by a formal claim on 19 February 1960 for the shortage of one (1) piece of seamless steel tube, valued at P599.06.

For the shortage worth P509.47 on the fifth shipment, P275.05 had been paid. Provisional claim was filed on time (Rec. on Appeal, p. 76).

The last package of the sixth shipment was discharged from the SS "Idaho" on 14 July 1960; plaintiff filed its provisional claim on 21 July 1960, followed by a formal claim on 7 September 1960 for the short-delivery of 32 pieces of end collars worth P177.52.

The last package of the seventh shipment was discharged from the SS "Bonneville" on 17 February 1960; plaintiff

filed its provisional claim on 22 February 1960, followed by a formal claim on 12 September 1960 for the shortage worth P58.51 for 10 pieces of end collars.

The last package of the eighth shipment was discharged from the carrying vessel, SS "Pioneer Moor", on 5 December 1959; provisional claim was filed on 17 December 1959, followed by a formal claim on 7 September 1960 for the shortage of 1,100 pieces of bolts, worth P2,741.80.

The claims for the above shortages were rejected by the trial court, as aforesaid; hence, the plaintiff-appellant interposed this appeal on the lone assignment of error that—

"the trial court erred in holding that the failure of plaintiff-appellant to file claims with complete supporting papers within fifteen(15) days after the date of the last discharge from the vessel was fatal to its aforesaid claims."

In brief, the trial court considered the provisional claims as not a "claim for the value" of the goods, within the meaning of Section 15 of the arrastre management contract between the Bureau of Customs and the Manila Port Service, because the provisional claims did not state what merchandise were short-delivered, much less their value, and were not accompanied by the bill of lading, commercial and consular invoices and the packing list, and, therefore, the fifteen-day period counted from the discharge of the last package from the carrying vessel within which to file claim, as provided in the said contract, which binds the consignee, was not complied with.

The said section stipulates:

"15. x x x x x in any event the CONTRACTOR shall be relieved and released of any and all responsibility or liability for loss, damage, misdelivery, and/or non-delivery of goods, unless suit in the court of proper jurisdiction is brought within a period of one (1) year from the date of the discharge of the goods, or from the date when the claim for the value of such goods have been rejected or denied by the CONTRACTOR, provided that such claim shall have been filed with the CONTRACTOR within fifteen (15) days from the date of discharge of the last package from the carrying vessel, x x x x x."

A sample of the provisional claims is copied hereunder:

"Manila, Oct. 21, 1959

Reg. No. 1348 m

PROVISIONAL CLAIM No. 2199-A S/S Ventura

MESSRS. Manila Port Service

AGENTS, S.S. Port Area, Manila

Gentlemen:

We beg to advise you that the following packages ex the above steamer have been (Shortlanded-Landed in a bad condition) and provisional claim is hereby made for any shortage or damage that may after examination be found to exist.

It is respectfully requested that investigation be made immediately in order to determine responsibility for same and written report will be greatly appreciated.

Very respectfully,

G. M. CANSIPIT, INC.

By: (Sgd.) (Illegible)

Agent

B/L CONSIGNEE MARKS & Nos. CONTENTS

DAMAGE CLAIMED

7 American Mach. & Parts Mfg. Inc. AMPARTS

50 drums shortlanded Manila east

iron castings

PRO. No. 2441

ENTRY No.

FROM: Oregon

NOTE: The above is a copy of claim filed this date with the above-mentioned STEAMSHIP AGENT. Any further steps looking towards collection of Shortage or damage should be taken by you."

As per above sample, the provisional claims substantially satisfied the "claim for value" required to be filed in section 15 of the management contract. As recently held by this Court in the case of State Bonding & Insurance Company vs. Manila Port Service and/or Manila Railroad Co., L-21833, promulgated on 28 February 1966:

"Although without statement as to amount and without accompanying documents, the provisional claims herein involved contained descriptions of the importations concerned, sufficient to allow the Manila Port Service reasonable verification. It would not have been difficult for defendant Manila Port Service to check on whether some or all of cargo therein described were in fact missing or in bad order. For it is supposed to have a complete and detailed recording or checking of said cargo (Section 5 of Arrastre Management Contract, Exh. 1). The particulars of the precise amount of indemnity claimed as well as the supporting papers for said claim were properly reserved for the formal claim thereafter filed, since the determination and preparation of the same by the consignee should be done carefully and without haste. The provisional claims in question therefore served the purpose of enabling the arrastre operator to check the goods in its possession, shortly after they had been discharged from their carriers."

Since, in the instant case, provisional claims were filed within the period of fifteen days from the discharge of the last package from the carrier in all the shipments in question, except the first and fourth, the consignee had complied with the period of limitation stipulated in the contract.

For the foregoing reasons, the appealed decision is hereby reversed and another is hereby entered condemning the defendants to pay unto the plaintiff-appellant American Machinery & Parts Manufacturing Co., Inc., the following sums:

- (1) P98.77 on the second cause of action;
- (2) P234.42 on the fifth cause of action;
- (3) P177.52 on the sixth cause of action;
- (4) P58.51 on the seventh cause of action; and
- (5) P2,741.80 on the eighth cause of action.

Costs against the defendants-appellants.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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