

WISE & COMPANY, INC., PLAINTIFF-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES AND/OR BUREAU OF CUSTOMS AND/OR CUSTOMS ARRASTRE SER-VICE, DEFENDANTS-APPELLANTS.*G.R. No. L-26934. February 19, 1968*

Ponente: BENGZON, J.P., J.

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Five hundred packages of 6-ply paper bags salt P.D.V. were shipped from England, consigned to Wise and Company, Inc., in Manila and discharged by the carrier SS "Antilochus" into the custody of the Customs Arrastre Service. Of the shipment, the Customs Arrastre Service delivered only 438 bags of which 31 bags were torn and slack. The consignee claimed P549.39 - the value of the 62 bags undelivered and the damage to the aforementioned 31 bags. When the Customs Arrastre Service failed to pay, the con-signee, on February 16, 1965, filed before the City Court of Manila an action to recover said amount plus P150 at-torney's fees, from the Republic of the Philippines, the Bureau of Customs and the Customs Arrastre Service.

The City Court and, on appeal, even the Court of First Instance of Manila ordered the defendants to pay plaintiff P549.39 notwithstanding the former's refusal to admit liability and its allegations of non-suability and non-compliance with the requisites for money claims against the government under Act No. 3083 as amended by C.A. 327. Hence, this appeal.

Plaintiff-appellee, after filing a motion to dismiss herein, submitted the case "for decision" without appel-lee's brief, in view of Our ruling in the case of Mobil Philippines Exploration v. Customs Arrastre Service and Bureau of Customs, L-23139, December 17, 1966. There and in subsequent cases,[1] We held that aside from having to present money claims of this nature according to the procedure set in Act 3083 as amended by C.A. 327, the Repu-blic of the Philippines, the Bureau of Customs and the Customs Arrastre Service - agencies of the former - ope-rated the arrastre service as a mere incident of a proper governmental function - that of assessing and collecting lawful revenues from imported articles and all other tariff and customs duties, fees, charges, fines and penalties. For the performance of such an incidental function, none of these defendants may be sued without its consent.

WHEREFORE, the judgment appealed from is reversed. Suit dismissed, without costs.

SO ORDERED.

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

[1] North British & Mercantile Insurance Co., Ltd. v. Isthmian Lines, Inc., L-26237, July 10, 1967; Insurance Company of North America v. Republic, L-26532, July 10, 1967; Insurance Company of North America v. Republic, L-24520, July 11, 1967; Insurance Company of North America v. Republic, L-25662, July 21, 1967;

Manila Electric Company v. Customs Arrastre Service, L-25515, July 25, 1967; Shell Refining Co. (Phil.) v. Manila Port Service, L-24930, July 31, 1967; The American Insurance Company v. Macondray & Co., Inc., L-24031, August 19, 1967; Equitable Insurance & Casualty Co., Inc. v. Smith Bell & Co. and Bureau of Customs, L-24383, August 26, 1967.

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