

ATLANTIC MUTUAL INSURANCE COMPANY, PLAINTIFF AND APPELLANT, VS. UNITED PHILIPPINE LINES, INC. AND/OR MANILA PORT SERVICE AND/ OR MANILA RAILROAD COMPANY, DEFENDANTS AND APPELLEES.

G.R. No. L-21546. March 31, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

On March 24, 1961 S.S. "Philippine President Magsaysay", owned and operated by United Philippine Lines, Inc., took onboard at New York City, U.S.A., 16 bales of cotton remnants consigned to Vera Clothes, Inc., Manila. This shipment was insured with Atlantic Mutual Insurance Company for \$8,950.00. S.S. "Philippine President Magsaysay" arrived in Manila on April 29, 1961 and on the same day discharged the 16 bales of cotton remnants, complete and in good order, to the Manila Port Service, a subsidiary of the Manila Railroad Company, rendering arrastre service in the Port of Manila.

On May 3, 1961 Vera Clothes, Inc., through its broker, Liberty Brokerage, Inc., filed with the Manila Port Service a provisional claim for short landed or bad order cargo in the usual mimeographed form for the purpose. On May 16, 1961 the Manila Port Service delivered to Vera Clothes, Inc. the 16 bales of cotton remnants, two bales of which were short by a total of 138.4 pounds valued at \$0.35 a pound or \$48.44 per Bad Order Examination Report No. 230 dated May 16, 1961 of the Manila Port Service. On May 17, 1961 consignee also filed another provisional claim dated May 16, 1961 but this time with C.F. Sharp & Co., Inc., shipping agent for S.S. "Philippine President Magsaysay". C.F. Sharp & Co., Inc., denied liability on the ground that the shipment was discharged to the Manila Port Service complete and in good order.

Subsequently, upon demand, Atlantic Mutual Insurance Company compensated Vera Clothes, Inc. in the sum of \$293.16 for the loss.

Vera Clothes, Inc. and/or Atlantic Mutual Insurance Company filed with the Manila Port Service no claim other than consignee's provisional claim of May 3, 1961.

On April 30, 1962 Atlantic Mutual Insurance Company, as successor-in-interest of Vera Clothes, Inc., commenced this action in the Court of First Instance of Manila against United Philippine Lines and/or Manila Port Service and/or Manila Railroad Company for the recovery of the sum of \$293.16 or its peso equivalent which it had paid to Vera Clothes, Inc.

Upon stipulation of facts, the afore-stated court rendered the following judgment:

"WHEREFORE, judgment is hereby rendered dismissing the complaint against all the defendants without any pronouncement as to costs."

Said court absolved United Philippine Lines, Inc. from liability on the ground that the shipment in question was

discharged in the Port of Manila to the Manila Port Service complete and in good order. It also ruled that the provisional claim filed with the Manila Port Service by the customs broker of Vera Clothes, Inc. on May 3, 1961 did not comply with Section 15 of the arrastre management contract between the Manila Port Service and the Bureau of Customs.

Atlantic Mutual Insurance Company appealed directly to this Court, upon a question purely of law, namely, the interpretation of Section 15 of the arrastre management contract.[1] Section 15 aforementioned states:

"* * * 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 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,* * *"

Appellant does not question the fact that Section 15 of the arrastre management contract between the Manila Port Service and the Bureau of Customs is binding upon the consignee, Vera Clothes, Inc. and its successor-in-interest.[2] At issue only is whether the provisional claim filed by the consignee with the arrastre operator substantially complies with Section 15's requirements.

The Manila Port Service contends that the aforesaid provisional claim is not the claim contemplated in Section 15 of the arrastre management contract for the reason that it did not state the nature of the damage and its value, arguing that it was merely an advice of an anticipated loss, and was in effect directed against the carrier, inasmuch as the short landing or landing in bad order of cargoes is the responsibility of the carrier.

In *State Bonding and Insurance Co., Inc. vs. Manila Port Service*, L-21838, February 28, 1966, this Court has already ruled that a provisional claim of the kind herein involved constitutes substantial compliance with Section 15.[3] Said claim is not speculative for it was filed after all the shipment was discharged from the carrier to the custody of the arrastre service and within the 15-day period fixed by Section 15. The record does not support the contention that the claim in question was merely an advice of an anticipated loss. On the other hand, the filing of the provisional claim by the consignee's broker indicates knowledge on the part of such broker that damage has in fact been sustained although it could not specify the amount thereof. In view of the 15-day limitation the claim had to be filed despite such deficiency. This provisional claim was subsequently confirmed by Manila Port Service's own bad order examination report dated May 16, 1961, that is, after the 15-day period had lapsed.

The purpose of a claim under Section 15 is to afford the arrastre operator reasonable opportunity to check the validity of the claim while the facts are still fresh in the minds of the persons who took part in the transaction and while the pertinent documents are still available.[4] The provisional claim in question no doubt served such purpose, for it gave the Manila Port Service a reasonable chance to verify and determine the validity of the claim from the checker's tally sheets and other papers in its possession as well as the goods themselves, which were stored in its warehouses.

Said purpose of Section 15 is satisfied notwithstanding the absence of a statement in the provisional claim as to the precise amount of the loss. Furthermore, it was only on May 16, 1961, when the arrastre operator delivered the goods to the consignee, that the value of the loss could thus be ascertained.

Neither may the claim be considered directed against the carrier, for the same was specifically addressed to the Manila Port Service, which is the party liable for bad order cargo as long as the damage occurred, as in this case, while the goods were in its custody. At any rate, as stated earlier, the Manila Port Service subsequently certified to the loss of 138.4 pounds. Such admission would preclude it from invoking the provision of Section 15 considering

that the object of said provision has already been accomplished.[5]

Wherefore, the judgment appealed from is reversed. The Manila Port Service is hereby ordered to pay the Atlantic Mutual Insurance Company the sum of \$48.44 or its peso equivalent as of April 30, 1962 when the complaint was filed, with legal interest thereon from said date, as prayed for on appeal. Costs against the Manila Port Service. So ordered.

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

[1] In this appeal only \$48.44 or its peso equivalent is sought to be recovered (Appellant's brief, p. 16).

[2] Insurance Company of North America vs. United States Lines, Co., et al., L-17032, March 31, 1964.

[3] See also Yu Kimteng Construction Corporation vs. MRR, L-17027, Nov. 29, 1965, GSIS vs. MRR, L-20342, Nov. 29, 1965.

[4] Consunji vs. Manila Port Service, L-15551, November 29, 1960.

[5] Republic of the Philippines vs. Manila Port Service, L-19115, March 31, 1964.

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