

**HARTFORD FIRE INSURANCE COMPANY, PLAINTIFF-APPELLANT, VS.  
UNITED STATES LINES COMPANY AND/OR PINEDA LIGHTER  
TRANSPORTATION CO., INC., DEFENDANTS-APPELLEES.**

*G.R. No. L-27819. September 30, 1982*

Ponente: RELOVA, J.

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**RELOVA, J.:**

In May 1964, Silco Refrigeration Corp., in New York shipped to the United States Embassy in the Philippines for the United States Employees Association on board the SS "Pioneer Minx" operated by defendant United States Lines Company, a box containing two (2) pieces of compressors. The cargo had an invoice value of \$680.00, CIF Manila, and was insured against loss or damage with the plaintiff for \$680.00 in the name of the shipper, loss payable to the importer.

The SS "Pioneer Minx" arrived in Manila on June 24, 1964. The piers were then congested and so United States Lines Company secured authority from the Bureau of Customs to unload the cargo into a lighter. Authority being given, the United States Lines Company hired the Lighter Pineda 107 of the Pineda Lighter Transportation Company, Inc. and the box containing the two compressors were discharged into said Pineda Lighter 107 on June 26, 1964.

On June 29, 1964, the Pineda Lighter 107 sunk near the seawall in Manila Bay together with the box containing the two compressors. Thereafter, the United States Lines Company wrote to the American Embassy, advising that the salvage cargo was in the bad order corral of the Bureau of Customs and requesting it to take delivery thereof.

The Allied Brokerage Corporation, acting for and in behalf of the consignee, took delivery of the cargo in damaged condition. Claim for loss was filed by the consignee against both defendants which rejected the same. A similar claim was filed by the consignee against plaintiff insurance company under the terms of its policy. The plaintiff paid to the consignee the sum of P2 ,652.00, thereby subrogating itself to all rights of recovery for the loss of the cargo which occurred while under the responsibility of both defendants or either of them.

Plaintiff filed the case against herein defendants holding them liable, jointly and severally, or whichever of them may be held liable.

The case was submitted for trial in the Court of First Instance of Manila which dismissed the complaint on August 8, 1967, saying that:

" that the cargo was lost due to strong winds and high waves is not disputed by the parties. It is plaintiff's contention, however, that the defendants are not exempt from liability since the event had been foreseen or should have been foreseen by the defendants as the coming typhoon ' Dading' must have been known to the defendants. It was only on the night of June 28 that the winds became stronger and the waves began to rise. The unloading of the SS 'Pioneer Minx' began on June 26, when typhoon ' Dading' must be still very far off, and when it could not have been foreseen by either of the defendants that it would strike Manila. The unloading took more than 2 days and by that time the unloading of the cargo from the SS 'Pioneer Minx' into

the lighter was over, the winds had become stronger and the waves had arisen. The defendant lighter had taken the necessary precaution to prevent any loss. The lighter was tied to the 'SS Pioneer Minx' with a 6-inch rope and the vessel itself gave other ropes to tie the barge to the vessel. However, when two other barges which were tied to the 'Eastern Galaxy' broke loose, one of them hit the SS 'Pioneer Minx.' Certainly, that event could not have been foreseen by the defendant. The 'Pineda-107' would not have gotten loose from its moorings had it not been hit by another barge. The waves carried the lighter 'Pineda-107' to the rocks where it floundered and the water seeped into the hatches. The hatches were covered with steel. The hatches, however, were not sealed and they were not intended to prevent the seepage of water if it should be below water level. There is no showing that the cover of hatches of vessels, and of barges in particular, are required to be air tight.

"The sinking of the lighter 'Pineda-107' being due to a fortuitous event, and this event not having been foreseen by the defendants, the defendants cannot be held liable for the loss of plaintiff's cargo. Article 1734 exempts common carriers from loss of the goods when it is due to a storm, earthquake, or other natural disaster or calamity. The cargo had been destroyed by a fortuitous event and no one shall be liable for events which cannot be foreseen."

From the foregoing decision, plaintiff appealed to this Court on the ground that said decision is "contrary to law and applicable jurisprudence," and contends that the trial court erred (1) in finding that the loss of the cargo was due to a fortuitous event not having been foreseen by the defendants- appellees, and that therefore, Article 1731 of the Civil Code applies; and (2) in dismissing the case instead of finding both defendants- appellees liable to plaintiff-appellant for the value of the goods, and for attorney's fees, with costs.

Considering that this case was brought directly to this Court on alleged pure question of law, appellant is considered as admitting as correct the findings of fact of the lower court. Notwithstanding, appellant is disputing the findings of fact of the lower court saying that "the established facts point to the inescapable conclusion that the negligence of the crew of the lighter is the direct and proximate cause of the sinking of the Pineda lighter;" that "the lighter sunk because water found entry through the manholes and the hatches and flooded the holes;" that "the manhole at the prow at the time of the typhoon had no covers, and there was no explanation offered to justify the effect of such a fact;" that it is not correct "for the trial court to convey the implication that water seeped into the hatches of the lighter when the hatch went below the water level;" and that the water which flooded the lighter went into the manhole located at the prow near the cabin and the manhole was at the time without any cover.

This Court will not examine the findings of fact of the lower court. Plaintiff had chosen to appeal direct to this Court. The notice of appeal says so. And, in its record on appeal plaintiff prayed that the records of this case be elevated to this Court, "for review on questions of law." A direct appeal from the Court of First Instance to this Court binds appellant to the findings of fact of the trial court because he is deemed to have accepted the facts as found by the lower court. He may only raise questions of law. Accordingly, the findings of fact of the court below in this case are final. They are not now open to question. ( *Abuyo vs. De Suazo*, 18 SCRA 600). When petitioner pursued its appeal directly to this Court instead of bringing it to the Court of Appeals, it waived its right to question the trial court's findings of fact. This Court will entertain only legal issue raised in this appeal. And, considering that no legal issues have been raised there is nothing for this Court to resolve.

ACCORDINGLY, the decision of the lower court is hereby AFFIRMED.

### **SO ORDERED.**

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ.,concur.

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