

**AMERICAN INSURANCE COMPANY, PLAINTIFF-APPELLANT, VS.
REPUBLIC OF THE PHILIPPINES AND BUREAU OF CUSTOMS,
DEFENDANTS-APPELLEES.**

G.R. No. L-25695. October 23, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Sometime in July 1963 SS "Toreador" delivered into the custody of the Bureau of Customs one (1) case of compressor parts and two (2) boxes of diesel engine parts shipped from New York and consigned to Bislig Bay Lumber Co. The Bureau of Customs delivered in bad order one (1) box with various items of diesel engine parts missing, worth P1,076.43. For the loss, American Insurance Co. paid the consignee.

On July 20, 1964, a complaint was filed before the City Court of Manila for the recovery of P1,076.43 by the American Insurance Co. as subrogee to consignee, against the Bureau of Customs and the Republic of the Philippines.

The City Court of Manila ordered defendant to pay P1,076.43 with legal interest from date of filing of the case. Appeal was taken to the Court of First Instance by defendants. After the defendants had answered, denying liability by interposing non-suability and after the parties had partially stipulated on the exhibits covering the lost parts worth P1,076.43, the Court of First Instance, on January 13, 1966, dismissed the case on the ground that the Republic may not be sued without its consent and that the Bureau of Customs, as a mere agency of the government, has no capacity to sue and to be sued.

Appeal to this Court was taken by plaintiff.

At issue is the purely legal question: May the Republic and the Bureau of Customs be sued herein?

As already decided in *Mobil Philippines Explorations, Inc. v. Customs Arrastre Service and Bureau of Customs*, L-23139, December 17, 1966, the arrastre operation by the Customs Arrastre Service is a necessary incident of the prime governmental function of taxation and therefore for said operation no suit can be filed against the Republic or its agencies involved without its consent.

WHEREFORE, the decision appealed from is affirmed. No costs.

SO ORDERED.

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

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