

**HARTFORD FIRE INSURANCE CO., PLAINTIFF-APPELLANT, VS.
CUSTOMS ARRASTRE SERVICE AND/OR BUREAU OF CUSTOMS
AND/OR REPUBLIC OF THE PHILIPPINES, DEFENDANTS-APPELLEES.**

G.R. No.

L-25362. October 23, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

From San Francisco, California, two (2) packages of nickel Babitt were shipped and consigned to Earnshaw Docks, & Honolulu Iron Works in Manila. The shipment was discharged into the custody of the Customs Arrastre Service of the Bureau of Customs, from SS "Bougainville" on July 15, 1964. However, when the Customs Arrastre Service, delivered the goods to the consignee, the same was found to have been pilfered to the extent of a 1,356-pound loss worth P12,572.00.

As a result, the insurer of the goods - the Hartford Fire Insurance Company, a foreign insurance company authorized to do business in the Philippines - paid the consignee the said amount and as subrogee of the consignee, laid claim against the Customs Arrastre Service. Failing to recover, the Hartford Fire Insurance Company filed on May 10, 1965 a complaint before the Court of First Instance of Manila praying that the customs Arrastre Service, the Bureau of Customs and the Republic of the Philippines be ordered to pay in its favor P12,572.00 with legal interest thereon, plus 25% thereof as attorney's fees plus costs.

The lower court dismissed the case sustaining the de-fendants' defense of non-suability. Hence, the case is now before Us on appeal.

All the assignments of error of the appellant really hinge on whether the defendants may be sued or not and this We have disposed of in the case of Mobil Philippines Exploration Inc. v. Customs Arrastre Service and the Bureau of Customs, L023139, December 17, 1966. There We held that a non corporate government entity performing a function proprietary in nature is not suable if said non-governmental function is undertaken as an incident to its governmental function. The Bureau of Customs in operating the Customs Arrastre Service as an incident of its primary governmental function of assessment and collection of lawful revenues from imported articles and all other tariff and customs duties, fees, charges, fines and penalties, is not suable, for obvious reasons of public policy. The same is true with the Republic of the Philippines in relation to said operation of the Bureau of Customs.

WHEREFORE, the judgment appealed from is affirmed, without costs.

SO ORDERED.

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

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