

PHILIPPINE EDUCATION CO., INC., PLAINTIFF-APPELLEE, VS. MANILA PORT SERVICE, ET AL., DEFENDANTS-APPELLANTS.

G.R. No. L-23811. October 30, 1967

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal on points of law from a judgment rendered by the Court of First Instance of Manila in its case No. 56020.

The essential antecedents of the case, as disclosed by the record and the stipulated facts, are that on June 17, 1962, the SS "SUSAN MAERSK" discharged at Manila 142 cartons of books consigned from New York to the Philippine Education Co., Inc. and received in good order condition by the arrastre operator Manila Port Service, a department of the Manila Railroad Company. On June 21, 1962, less than four (4) days after discharge, the consignee filed a provisional claim of loss and damage stating the marks and number of packages, following it by formal claims on October 22 and 26, placing the value of the damage at P601,78. The Bad Order Examination Report No. 1525, dated August 14, 1962, issued by the Manila Port Service, showed 21 cartons as having sustained shortages.

The claims having been rejected, the Philippine Education Company, Inc. brought action in the Municipal Court of Manila, which ordered the Port Service to indemnify the plaintiff. Defendant appealed to the Court of First Instance. After hearing, the latter affirmed the judgment of the Municipal Court, awarding the plaintiff P601.78 including for all damages suffered by the consignee, plus P50.00 attorneys' fees and costs.

Dissatisfied with the decision rendered, defendant again appealed, this time to the Supreme Court.

The first issue that appellant tenders is the alleged insufficiency of the provisional claim, for failure to state the money value of the damage sustained. We have overruled this contention in numerous decisions rendered previously, particularly *Atlantic Mutual Insurance Co. vs. United Lines and Manila Port Service*, L-21546, March 31, 1966; *State Bonding & Insurance Co. vs. Manila Port Service*, L-21838, Feb. 28, 1966 and *Domestic Insurance Co. vs. Manila Railroad Co.*, L-24066, August 30, 1967, wherein we ruled that the purpose of a provisional claim being to afford the arrastre operator a reasonable opportunity to check the validity of the claim while the facts are still fresh, the absence of a statement therein as to the precise amount of the loss does not render the claim invalid as a substantial compliance with the terms of Section 15 of the arrastre management contract, so long as the claim is filed after the discharge of the cargo and within 15 days thereafter.

The appellant argues next that the award should have been limited to P303.86, the established invoice value of the damaged goods. This contention must be overruled. In *Caltex (Phil.) Inc. vs. Manila Port Service*, L-21055, August 31, 1966, it was held that the arrastre operator is responsible, not only for the invoice value of the goods damaged or lost, but also for all damages that may be suffered by the consignee on account of their loss, destruction or injury. This case being a direct appeal from the Court of First Instance, the review must be confined to points of law, and the amount of damages found by the Court below is no longer debatable.

Appellant lastly protests against the award of P50.00 attorneys' fees. Appellant has been systematically rejecting claims of the kind shown at bar, as attested by numerous decisions of this Court in this and past years. Such conduct renders the award of attorneys' fees just and equitable, and the objection must be rejected (Civil Code, Art. 2208, No. 11).

WHEREFORE, the appealed decision is affirmed with costs against appellants, Port Service and Manila Railroad Company.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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