

THE LIVERPOOL LONDON & GLOBE INSURANCE CO., LTD., PLAINTIFF-APPELLEE, VS. MANILA PORT SERVICE AND MANILA RAILROAD COMPANY, DEFENDANTS-APPELLANTS.

G.R. No. L-23338. November 18, 1967

Ponente: RUIZ CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a8d28549e112/>

RUIZ CASTRO, J.:

On December 20, 1959 the defendant Manila Port Service, a subsidiary of the other defendant Manila Railroad Company, received two shipments of 340 and 66 packages of magazines and books, covered by bills of lading 173 and 174 respectively, from the carrying vessel SS "Susan Maersk". These packages, totalling 406, were shipped by the Philippine Education Co. Inc., New York, U.S.A. to the Philippine Education Co. Inc., Manila. On December 24, 1959 the consignee, which received only 401 packages, filed a provisional claim with the defendants for the missing packages under paragraph 15 of the management contract[1] which reads:

"* * * the CONTRACTOR shall be solely responsible as an independent contractor for, and promptly pay to the steamship company, consignee, consignor, or other interested party or parties the invoice value of each package but which in no case shall be more than five hundred pesos (P500.00) for each package unless the value is otherwise specified or manifest-ed, and the corresponding arrastre charges had been paid, * * * in any event the CONTRACTOR shall be relieved and released of any and all responsibility or liability for loss, damage, mis-delivery, 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 (sic) been rejected or de-nied 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. * * *"

This was followed by a formal claim for P850.31, the total value of the missing packages - P739.34 on bill of lading 173 as "evidenced by Debit Note No. 1753-B (Exh. B)" and P110.97 on bill of lading 174, as "evidenced by Debit Note No. 1752-B (Exh. J)", - which formal claim was duly acknowledged by the defendants.

On December 20, 1960 the plaintiff, The Liverpool & London & Globe Insurance Co., Ltd., as insurer-subrogee of the consignee, filed the present action with the municipal court of Manila, to recover from the defendants the total value of the missing packages plus legal interest thereon, P300 as attorney's fees and for expenses of litigation, and costs. Upon a written stipulation of facts submitted by the parties, the municipal court rendered judgment in favor of the plaintiff.

On appeal, the Court of First Instance of Manila, upon the same stipulation of facts, rendered judgment

"*** in favor of the plaintiff and against the defendants, ordering them to pay the former, jointly and severally, the total sum of P850.31 with interest thereon at the rate of six (6) per cent per annum from December 20, 1960, the date of the filing of the complaint, until the principal shall have been fully paid, plus the sum of P300.00 as attorney's fees of the plaintiff and the costs of the suit."

Hence this appeal.

1. It is first contended by the appellants that the pro-visional claim in question is not a valid one. It is argued that to have a proper suit against the arrastre operator under paragraph 15 of the management contract, it is necessary that the provisional claim be one for value; that the statement in the claim that the shipment is "short-landed and/or landed in bad order" is vague and misleading, and does not indicate the value of the missing packages; that no invoices or proof of the purchase price of the lost cargo are attached thereto; and that the formal claim which was made on July 25, 1960, or seven months after the date of last discharge on December 20, 1959, was filed too late.

This contention is without merit.

Although the provisional claim did not state the value of the missing packages, the words "short-landed and/or land-ed in bad order", together with the specific reference there-in to bills of lading 173 and 174, sufficiently placed the defendants on notice as to the nature and character of the claim, and provided them with ample basis for reasonable verification. These circumstances, as we have heretofore in many cases already held, constitute substantial compliance with paragraph 15 of the management contract.[2]

The subsequent filing of the formal claim seven months after the date of last discharge from the carrying vessel had no effect on the timeliness of the provisional claim which was made only four days after the date of last discharge from the vessel.

2. On the matter of the period within which an action should be brought, we held in *Alpha Insurance & Surety Co. vs. Manila Port Service, et al.*[3] that

"Paragraph 15 of the management contract provides two alternative periods in reference to an action to be filed to enforce liability for loss or damage: (1) one year from the date of last discharge of the goods, or (2) one year from the date the claim is rejected or denied by the arrastre operator, provided, however, that a provisional claim shall have been previously filed with said operator within 15 days from the date of last dis-charge from the carrying vessel. The first period refers to a case where the claimant files an action in court without awaiting the contractor's pleasure on the claim, in which event the action should be filed within one year from the date of last dis-charge from the carrying vessel. The second period applies where the claimant prefers to wait for de-finitive action by the operator, in which event the action should be filed within one year from the date of rejection."

In the case at bar, the appellee availed of the first alternative period: "one year from the date of last discharge of the goods." The last discharge was completed on December 20, 1959. The present action which was filed on December 20, 1960, or the last day of the prescriptive period, is therefore not time-barred.

3. It is further contended by the appellants that their liability, if any, should be only P696.47, the invoice value of the undelivered packages, pursuant to section 15 of the management contract, and not the c.i.f. value thereof of P850.31, the amount awarded by the court a quo.

This contention is likewise without merit.

The written stipulation of facts here controlling indeed states in part that "the arrastre fee paid by the consignee was computed on the weight and measurement of the shipment and not on the value thereof". Ordinarily, therefore, the consignee cannot demand the full undeclared value of the lost cargo.

"* * * it may be stated that appellant could adequately protect itself, by simply specifying or manifesting the actual value of it under the law [Import entry (Sec. 1267, Rev. Adm. Code); writ-en declaration (Sec. 1268-6, in connection with Secs. 1269 and 1271, Rev. Adm. Code)], and paying the corresponding arrastre charges of

the same, pursuant to the provisions of said paragraph 15, and of the 'Important Notice' contained in the Delivery Permit and Gate Pass which its representative or broker accepts, signs, and utilizes, upon taking delivery of the imported cargo from appellee arrastre operator, in which event, the latter expressly binds itself and undertakes to reimburse appellant the actual value of the cargo, in case of its damage, destruction, or loss while under its custody. If appellant failed to so state the value of its merchandise in any of these documents required by law before it cleared its goods, and paid only the arrastre charge based on a lesser value, it cannot in justice now demand the full undeclared value." [4] (emphasis supplied)

The reason for this rule is stated in *Northern Motors, Inc. vs. Prince Line, et al.*, [5] as follows:

"* * * Among the conditions imposed by law for this purpose is for the owner or consignee to submit to the collector of Custom a written declaration containing, inter alia, a 'just and faithful account of the actual cost of said merchandise, including and specifying the value of all containers or coverings, and that nothing has been omitted therefrom or concealed whereby the Government of the Republic of the Philippines might be defrauded of any part of the duties lawfully due on the merchandise.'"

It should be pointed out, however, that under paragraph 15 of the management contract the arrastre operator is responsible not only for the invoice value of the goods in case of loss thereof, but also for all damages sustained on account of such loss. [6] There is no question that in addition to the actual cost of the missing packages, insurance and freight charges thereon were paid by the consignee in connection with their importation. The said insurance and freight charges are actual damages collectible under paragraph 15 of the said management contract.

Moreover, it is quite obvious that it would be more favorable to the defendants for them to pay to the appellee the full value of the lost cargo in the total sum of P850.31, than for the appellee to insist on the enforcement of the limited liability clause in paragraph 15 of the management contract which allows the appellee to collect "five hundred pesos (P500.00) for each package". For, in the latter situation, the appellants, instead of paying only P850.31, would then have to pay to the appellee the amount of P2,500 (5 lost packages x P500 for each package).

4. The award of P300 as attorney's fees is not inordinate, considering the high professional standing of the appellee's counsel of record which successfully prosecuted this case from the municipal court through the CFI to this Court.

ACCORDINGLY, the judgment a quo is affirmed in toto, at defendants-appellants' cost.

Reyes, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., concurs in the result.

[1] Entered into by and between the Manila Port Service and the Bureau of Customs on February 29, 1956.

[2] *Alpha Insurance & Surety Co. vs. Manila Port Service, et al.*, L-22576, October 31, 1967, and the cases there in cited.

[3] Note 2, *supra*.

[4] *Jose Bernabe & Co., Inc. vs. Delgado Brothers, Inc.*, 107 Phil. 287.

[5] 107 Phil. 253.

[6] See *Caltex (Philippines), Inc. vs. Manila Port Service, et al.*, L-21055, Aug. 31, 1966 17 Sup. Ct. Rep. Annotated 1073 and 1076.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.