

**FIREMAN'S FUND INSURANCE COMPANY,
PLAINTIFF-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES AND/OR
BUREAU OF CUSTOMS, DEFENDANTS-APPELLANTS.**

G.R. No. L-25844. October 23, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Fireman's Fund Insurance Company insured an imported shipment of 156 packages of electric transformers and parts, consigned of General Electric Company, Philippines. The cargo arrived in Manila on board SS "Pioneer Mill" on April 30, 1963 and was delivered into the custody of the Bureau of Customs in good order condition. The latter however delivered only 150 packages, less 6 packages worth P3,630.97. The consignee laid claim against the Bureau of Customs. Upon failure of the Bureau of Customs to pay, Fireman's Fund Insurance Company paid the consignee its claim.

On July 31, 1964, the insurance company as subrogee to the consignee, filed before the City Court of Manila a complaint (Civil Case No. 60812) for the recovery of the aforementioned sum of P3,630.97 with legal interest, against the Republic of the Philippines as arrastre operator and the Bureau of Customs as a unit through which the Republic operates. On March 3, 1965, the City Court decided in plaintiff's favor. On appeal, the Court of First Instance of Manila, on January 26, 1966, also decided against defendants, ordering them to pay P3,630.97, despite their allegations of non-liability and assertion of immunity from suit.

The Republic has appealed to Us, pleading, among others, immunity from suit and non-compliance with the procedure set forth under Act 3083 as amended by Commonwealth Act No. 327.

The non-suability of the Republic must be upheld. In *Mobil Philippines Exploration, Inc. v. Customs Arrastre Service and Bureau of Customs*, L-23139, December 17, 1966, We enunciated the doctrine that the Republic of the Philippines as arrastre operator through the Bureau of Customs or the Customs Arrastre Service may not be sued. Neither may the Bureau of Customs nor the Customs Arrastre Service, for these are but parts of the governmental machinery of the Republic performing a service incidental to a prime governmental function. We also had occasion to state there that the claim should have been filed before the Auditor General in pursuance to the procedure established by Act 3083 as amended by Commonwealth Act 327. Contrary to plaintiff-appellee's stand, the present money claim refers to a fixed amount easily verifiable on the strength of papers and invoices within reach of accounting officers and, thus, may be submitted to the Auditor General under the aforesaid laws; the fact that the Government denies liability does not render said Auditor General powerless to entertain a liquidated money claim (See Resolution in *L-26532, Insurance Co. of North America v. Republic*, August 30, 1967).

WHEREFORE, the decision appealed from is hereby re-versd and the complaint is dismissed, 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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