

**PHILIPPINE EDUCATION CO., INC., PLAINTIFF-APPELLEE, VS.
MANILA PORT SERVICE AND/OR MANILA RAILROAD COMPANY,
DEFENDANTS-APPELLANTS.**

G.R. No. L-23716. September 20, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Appeal by the Manila Port Service and the Manila Railroad Company from an amended decision of the Court of First Instance of Manila sentencing them, jointly and severally, to pay to plaintiff, Philippine Education Co., Inc., the sum of P2,403.21, with interest thereon, at the legal rate from the filing of the complaint until fully paid, plus P300.00 as attorney's fees and the costs.

Appellants raise several issues¹ only one of which need be taken up, in view of our conclusion thereon and its effect upon the other issues. The main question, on which this appeal hinges is whether or not the provisions of paragraph 15 of the Management Contract between appellants herein, which is admittedly binding upon the plaintiff, have been complied with by the latter. The pertinent part of said paragraph reads:

"x x x 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 the discharge of the goods, or from the date when the claim for the value of such goods have been rejected or denied 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."

More specifically the issue for determination is whether a provisional claim, filed with appellants, on April 28, 1960, or 3 days from the discharge of the goods in question from the carrying vessel unto the custody of the Manila Port Service – hereinafter re-ferred to as the MPS – satisfies the requirements of the above-quoted provision, it being conceded that no other claim had been filed within fifteen (15) days from said discharge.

Appellants assail the sufficiency of said provisional claim upon the ground that it referred, not to the shipment involved in this case, but to another shipment, because the former consisted of 305 packages containing books and magazines, whereas the provisional claim in question made reference to a shipment of "13 pkgs. books, etc." and "290 pkgs. books, mech. hand tools, magazines, staples, etc." This contention is manifestly untenable, not only because said claim alluded to an aggregate shipment of 303 packages, which is close enough to the 305 packages composing the shipment under consideration, but also, because said provisional claim specified the true number of the bill of lading of the aforementioned shipment, and the name of the carrying vessel, as well as the correct date of its arrival at the Port of Manila, namely: "B/L 123" "S/S Pioneer Ming ar.: 4/25/60." Moreover, it is not even suggested that other goods consigned to the plaintiff had arrived at said port, on the date last mentioned, much less that these goods were, also, the object of said bill of lading No. "123 N. Y" In short, the data set forth in the provisioned claim were amply sufficient to identify the shipment involved therein.

The said provisional claim stated, however, that it was for goods "short landed and/or landed in bad order ex-abovemen-tioned vessel",² thus indicating that the loss of goods took place, and/or the damage thereto was caused, on board the carrying vessel and before they were delivered to defendants herein. Although the claim was addressed to both the carrier and the MPS,³ the body of the document, or the language thereof and its contents were such as to clearly imply that the liability complained of was demandable, not from the MPS, but from the owners or operators of the carrying vessel. Its natural effect was to give the impression that plaintiff's claim was valid only against the carrier, not against the ar-rastre operator, and, that, accordingly, the latter need not investigate the truth of the allegation on which plaintiff's claim was based, it being obvious on its face that the defendants could not be held liable therefor. In other words, the provisional claim was couched in such terms as to, in effect, deprive the defendants of a reasonable opportunity to check - by intimating that it was unnecessary to as-certain - the truth of plaintiff's claim, insofar as relevant to their liability.⁴

Said claim was, accordingly, insufficient to comply with the requirements of paragraph 15 of the Management Contract, for which reason a discussion of the other issues raised by appellants herein will serve no useful purpose.

WHEREFORE, the decision appealed from is hereby reversed, and the compliant herein dismissed, with costs against the plaintiff.

IT IS SO ORDERED.

Reyes, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

1 1) Timeliness of the claim; 2) amount recoverable; 3) propriety of awarding attorney's fees and costs.

2 Underscoring ours.

3 "Messrs. United States Lines Co., Manila and/or Manila Port Service."

4 The American Insurance Co. vs. Manila Port Service, et al., G.R. No. L-22780, February 18, 1967; State Bonding & Insurance Co. vs. Manila Port Service, G.R. No. L-21833, February 28, 1966; and Yu Kimteng Construction Corp. vs. Manila Railroad Co., G.R. No. L-17027, November 29, 1965.

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