

**INSURANCE COMPANY OF NORTH AMERICA,
PLAINTIFF-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES AND/OR
BUREAU OF CUSTOMS, DEFENDANTS-APPELLEES.**

G.R. No. L-25871. October 23, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Insurance Company of North America, a foreign corporation licensed to do business in the Philippines, insured a shipment of ten (10) packages of various chemical compounds and raw materials consigned to Ed. A. Keller & Co. Upon arrival of the carrying vessel SS "Pioneer Myth", the cargo was discharged into the custody of the Bureau of Customs which was then operating the arrastre service. Of the shipment, however, only four (4) cases were delivered by the latter to the consignee. The value of the six cases lost P3,718.74 - was paid by the Insurance Company of North America, which in turn, as subrogee to the consignee, tried to recover the said amount from the Bureau of Customs.

When the insurer was not able to recover from the said Bureau, it filed on December 1, 1964 an action before the City Court of Manila against the Republic of the Philippines and the Bureau of Customs, praying that the defendants be ordered to pay the company P3,718.74 plus attorney's fees and costs. The City Court found for the plaintiff.

On February 24, 1966, the Court of First Instance of Manila, however, upon appeal, dismissed the case on the ground that the Bureau of Customs, being a mere branch of the Republic of the Philippines, had no legal personality to sue or be sued, and that the Republic of the Philippines itself may not be sued without its consent. Hence this appeal.

The Court of First Instance must be sustained. When the Bureau of Customs, in performing its main governmental function of taxation carries out a necessary incidental function - the arrastre service, it can not be sued, on reasons of public policy.[1] Otherwise, allowing it to be sued would greatly hamper the performance of its go-vernmental function. The same is true also with the Republic of the Philippines which operates the Bureau of Customs as its agency.

Money claims, such as this one, against the Republic should be filed with the office of the Auditor General, according to the procedure set forth in Act 3083 as amended by C.A. 327.[2]

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

SO ORDERED.

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

[1]Equitable Insurance & Casualty Co., Inc. v. Smith, Bell & Co. and Bureau of Customs, L-24383, Aug. 26, 1967.

[2] Mobil Philippines Exploration v. Customs Arrastre Service and Bureau of Customs, L-23139, Dec. 17, 1966.

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