

HENDERSON TRIPPE SHIPPING CO., INC., & TEH AN SHIPPING COMPANY, PETITIONERS, VS. HON. LUIS B. REYES, JUDGE COURT OF FIRST INSTANCE OF MANILA AND FAR EAST INTERNATIONAL IMPORT-EX...

G.R. No. L-11763. May 28, 1958

Ponente: BENGZON, J.

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BENGZON, J.:

By resolution of April 16, 1953, the parties hereto were required or permitted to state within ten days from notice their reasons, if any, why this litigation should not be declared moot. So far, no one submitted any comment.

Briefly outlined, the case arose from a suit pending before Hon. Luis B. Reyes, Judge of the Manila Court of First Instance (Civil Case No. 31042) wherein Far East International Import and Export Corporation sued Henderson Trippe Shipping Co. Inc., et al., to compel the latter to sign and deliver to it the bills of lading for plaintiff's scrap iron loaded aboard defendants' S. S. Liberal, which had left the Port of Manila for Japan, and to recover damages.

Besides other defenses, the answer explained that no bills had been issued because Far East International Import and Export Corporation had failed to pay the freight, demurrage and other charges for which it was accountable.

Soon thereafter, in an urgent petition, Far East represented to the Court that the scrap iron shipment had arrived in Japan, that for lack of bills of lading, it was impounded in a bonded warehouse and will probably be sold at public auction in Osaka, Japan, unless the bills of lading were promptly issued to plaintiff, which Would furnish a bond to answer for defendants' freightage and other charges. Far East therefore prayed that upon submission of a bond in the amount fixed by the Court, the defendant Henderson Trippe be directed and authorized to sign and issue the aforesaid shipping documents. Over the defendants' objection, the petition was granted in an order dated December 24, 1956, fixing a bond in the amount of P50,000.00.

After denial of their motion to reconsider, petitioners commenced here the instant proceedings for certiorari, to annul the aforesaid order and for preliminary injunction to restrain its enforcement in the meantime.

Our resolution of January 7, 1957, requiring respondents to answer, authorized the issuance of a preliminary injunction "upon petitioners' filing a bond of P10,000.00." However, such bond was never filed, and the injunction never issued. There is no reason to believe that the lower court's order to deliver the bills of lading has not been carried out.

On the other hand, on January 18, 1957, respondents informed this Court that the scrap iron subject-matter of the litigation, then on deposit in an Osaka warehouse, was scheduled to be sold at public auction on the same day, and petitioned this Court to suspend such auction sale until further orders; but this Court denied the request upon the obvious ground that it 'had no power to enforce the requested directive in a foreign country. Again, there is no reason to believe that the sale has not been carried out as scheduled.

So, as the main object of the instant litigation was to avoid delivery to the Far East of the bills of lading, and the urgency or importance of such delivery has disappeared with the sale of the scrap iron, it may now be considered moot or academic,[1] the parties having the opportunity to ventilate, in Civil Case No. 31042 of the Manila Court of First Instance, the remaining question of damages, if any, arising from the issuance of the disputed order.

Case dismissed. No costs.

Paras, C.J., Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

[1]La Carlota v. Camon, 63 Phil. 1051; Cruz v. Martin, 75. 11.

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