

**FIREMAN'S FUND INSURANCE COMPANY,
PLAINTIFF-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES AND
UNITED STATES LINES CO., DEFENDANTS-APPELLEES.**

G.R. No. L-26618. October 23, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

The record shows that of the shipment of twenty-one (21) packages of industrial control parts, etc., consigned to General Electric, Philippines, and delivered by SS "Pioneer Mist" into the custody of the Bureau of Customs as the arrastre operator, the latter did not deliver two (2) packages valued at P36,914.35. Fireman's Fund Insurance Company as insurer of the said shipment against loss or damage, paid the consignee said amount and as consignee's subrogee pursued the claims before the Bureau of Customs. Failing in recovery, the Fireman's Fund Insurance Company filed before the Court of First Instance of Manila on June 21, 1966, a complaint to re-cover P36,914.35 plus P1,000 attorney's fees and costs; alleging that the condition of the goods was not known when it was delivered by the carrier to the Bureau, it impleaded as defendants, the Republic of the Philippines and the carrier United States Lines Company.

The Republic of the Philippines moved to dismiss, alleging its non-suability and non-compliance with Act 3083 as amended by C.A. 327 requiring money claims to be filed with the Auditor General. The United States Lines, denying liability, claimed that the shipment was discharged into the custody of the Bureau of Customs in good order condition.

Over the opposition of the plaintiff, the Court of First Instance of Manila dismissed the case as against the Republic of the Philippines, ruling that the Republic was not subject to suit without its consent, aside from the fact that the claim was not filed with the Auditor General as should be the case under Act 3083 as amended by C.A. 327. Hence, this appeal.

The assessment, collection of lawful revenues from imported articles and all other tariff and customs duties, fees, charges, fines and penalties, is a prime governmental function being carried out by the Republic of the Philippines through the Bureau of Customs and the Customs Arrastre Service as its agencies, the latter performing a necessary incidental function - the arrastre service. In the performance of such a necessary incident, neither the Republic nor the Bureau of Customs nor the Customs Arrastre Service may be sued without its consent, for obvious reasons of public policy. And as provided for in Act 3083 as amended by C.A. 327, the money claim should have been filed before the office of the Auditor General.[1]

The present claim appears to be a liquidated one, being for a fixed sum of money based on fairly accessible papers and records; the fact that the Government disputes its liability for a liquidated claim does not convert it into an unliquidated one.[2]

WHEREFORE, the order of dismissal appealed from is hereby affirmed and the case against the Republic of the Philippines is dismissed. No costs.

SO ORDERED.

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

[1] Mobil Philippines Exploration v. Customs Arrastre Service and Bureau of Customs, L-23139, Dec. 17, 1966; Equitable Insurance & Casualty Co., Inc. v. Smith, Bell & Co., and Bureau of Customs, L-24383, August 26, 1967.

[2] Insurance Co. of North America v. Republic of the Philippines, et al., L-27517, Sept. 15, 1967.

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