

STATE BONDING INSURANCE COMPANY, INC., PLAINTIFF-APPELLEE, VS. MANILA PORT SERVICE, ET AL., DEFENDANTS-APPELLANTS.

G.R. No. L-22395. December 17, 1966

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Direct appeal to this Court by defendants Manila Port Service, et al. against a decision of the Court of First Instance of Manila, in its Civil Case No. 47603, on the ground that the issues raised herein are allegedly Pure questions of law.

The undisputed facts of this case may be stated briefly as follows:

Various kinds of imported goods or merchandise were shipped, through separate carrying vessels, destined for the Port of Manila, and which arrived on different dates. These shipments were consigned to seven (7) owners who insured them with plaintiff against loss or damage. After their arrival, defendants-appellants, as arrastre operators, discharged and received them in complete and good order, and forthwith notified the consignees who, through their authorized agents-brokers, filed with defendants their respective "provisional claims" for loss and/or damage within fifteen (15) days from discharge of the last package, followed by formal claims which were, however, submitted beyond the fifteen-day period from last discharge.

Defendants failed to deliver and/or delivered in bad order some of these imported goods to the consignees-insured; and, upon demand by the latter, plaintiff, as insurer, paid for the value of the lost or damaged cargoes. The consignees assigned their rights to plaintiff who thus became subrogated to their rights.

Plaintiff demanded the delivery of the lost or damaged goods or the payment of their value from defendants, but the latter refused; hence, the former brought suit in the Manila Court of First Instance, alleging nine (9) causes of action. The first seven reiterate its demand for delivery of the lost or damaged goods or for payment of their value, while the eighth and ninth causes of action claim actual damages and attorney's fees, respectively.

Defendants answered the complaint, denying any liability therefor, mainly on the ground that plaintiff's claims had already become barred under the provision of Section 15 of the Arrastre Management Contract entered into by and between the defendants and the Bureau of Customs, which contract binds the Parties hereto.

Before the case was called for hearing in the trial court, the parties submitted a partial stipulation of facts, setting and limiting the money value of actual damages suffered by plaintiff to P100.00, P150.00, US \$937.00, P490.00, P60.00, P324.42, P100.00 on the first seven causes of action, respectively, and admitting the binding effect of the Arrastre Management Contract, but reserving the right to present additional evidence to substantiate their respective claims and defenses not covered by the said partial stipulation of facts.

After due hearing thereon, the trial court found that the provisional notices were adequate and sufficient; that defendants are liable to plaintiff for the sums stated in the partial stipulation of facts; that they are also liable for the other actual damages on account of their negligence; and that they unjustifiably refused to satisfy plaintiff's

valid claims; hence, it rendered judgment, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, judgment is hereby rendered in favor of the plaintiff and against the defendants, ordering the defendants to pay to the plaintiff—

- (a) On the first cause of action, the sum of P100.00;
- (b) On the second cause of action, the sum of P150.00;
- (c) On the third cause of action, the sum of P2,825.05 (which is the equivalent of US\$937 in Philippine pesos computed at the rate of P3.015 to US \$1.00);
- (d) On the fourth cause of action, the sum of P490.00;
- (e) On the fifth cause of action, the sum of P60.00;
- (f) On the sixth cause of action, the sum of P324.42;
- (g) On the seventh cause of action, the sum of P100.00;
- (h) On the eighth cause of action, the sum of P1,682.57 by way of damages;
- (i) On the ninth cause of action, the sum of P1,000.00 as and for attorney's fees; and
- (j) With costs against the defendants, jointly and severally.

SO ORDERED."

Not satisfied with the above decision, defendants directly interposed the present appeal to Us, on points of law.

The first issue raised by appellant is whether or not the filing of said "provisional claims" within fifteen (15) days from discharge of the last package substantially complies with section 15 of the Arrastre Management Contract which in part provides:

" x x x in any event the CONTRACTOR (herein defendants-appellants) 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 discharge of the goods, or from the date when the claim for the value of the 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."

Appellants contend that there was no substantial compliance, since said "provisional claims" are mere simple notices couched in general and vague terms, usually of goods shortlanded or those landed in bad order, without a statement of extent of loss or damage nor the value of the same; hence, they are not the claims for value of the goods contemplated and required in the above quoted section 15. The lower court having found that the notices were sufficient to cause the Port Service to start investigating, and the notices themselves not having been elevated to this Court, we must abide by the ruling of the court below on this point.

A similar contention has already been raised by appellant arrastre operators in a previous case involving the same parties on practically identical sets of facts as the case at bar, and We rejected the same, holding that—

"The reason underlying Section 15's aforestated requirement of filing a claim within the 15-day period therein provided is to give reasonable opportunity to check the validity of the claim while the facts are still fresh in the minds of the persons who took part in the transaction and while the pertinent documents are still available.[1] Although without statement as to amount and without accompanying documents, the provisional claims herein involved contained descriptions of the importations concerned. sufficient to allow the Manila Port Service

reasonable verification. It would not have been difficult for defendant Manila Port Service to check on whether some or all of cargo therein described were in fact missing or in bad order. For it is supposed to have a complete and detailed recording or checking of said cargo (Section 5 of Arrastre Management Contract, Exh. 1). The particulars of the precise amount of indemnity claimed as well as the supporting papers for said claim were properly reserved for the formal claim thereafter filed, since the determination and preparation of the same by the consignee should be done carefully and without haste. The provisional claims in question therefore served the purpose of enabling the arrastre operator to check the goods in its possession, shortly after they had been discharged from their carriers.

"Previous rulings of this Court in regard to provisional claims have been in line with the foregoing considerations. Thus in one case we had occasion to state that a provisional claim for damage or short delivery filed before the goods were discharged from the carrying vessel did not comply with Section 15's requirement, the same being premature and speculative.[2] On the other hand, a provisional claim filed after the discharge of the goods from the vessel and within the fifteen-day period mentioned in Section 15, has been considered sufficient compliance with the proviso therein requiring the filing of a claim within said fifteen days.[3]

The same ruling was later reiterated and cited in a number of recent cases. The other issues raised by appellants refer to the propriety of the award of actual damages and attorney's fees. We find that appellant's arguments dispute findings of fact made by the trial court. It is already well-settled that when a party directly appeals to this Supreme Court, intimating that he would only raise purely legal questions, he is deemed to have waived or precluded from questioning, and this Court is bound by the finding of fact made by the trial court. We are thus constrained to accept said findings as final and conclusive and uphold, therefore, the ruling of the trial court on these issues. Moreover, this Court already considered an award of attorney's fees as reasonable in a case of similar nature (*Yu Kimteng Construction Corp. vs. Manila Railroad Co., et al.*, G. R. No. L-17027, November 29, 1965).

WHEREFORE, the appealed judgment should be, as it is hereby affirmed. With costs against defendants Manila Port Service and Manila Railroad Company.

Concepcion, C.J., Barrera, Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

[1] *Consunji v. Manila Port Service*, L-15551, November 29, 1960.

[2] *Shell Company of the Phil. Ltd. v. Compañia General de Tabacos de Filipinas*, L-20230, July 30, 1965.[3] *Yu Kimteng Construction Corp. v. MRR*, L-17027, Nov. 29, 1965; *GSIS v. MRR*, L-20342, November 29, 1965." (*State Bonding & Insurance Co. vs. Manila Port Service, et al.*, G.R., No. L-21833, Feb.28, 1966) (*Italic supplied*)

[4] *Atlantic Mutual Insurance Co. vs. United Philippine Lines, Inc., et al.*, G.R. No. L-21546, March 31, 1966; *Atlantic Mutual Insurance Co. vs. Manila Port Service, et al.*, G.R. No. L-21907, Apr. 29, 1966; and *American Machinery & Parts Manufacturing Co., Inc. vs. Manila Railroad Co., et al.*, G.R. No. L-21460, Apr. 30, 1966.

[5] *Millar vs. Nadres*, 74 Phil. 307; *Portea vs. Pabelion*, 84 Phil. 298; *De Leon vs. Ross*, 91 Phil. 924 (unreported); *Flores vs. Plasina*, 94 Phil. 327.

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