

**INSURANCE COMPANY OF NORTH AMERICA,
PLAINTIFF-APPELLANT, VS. UNITED STATES LINES CO. AND THE
MANILA PORT SERVICE AND/OR MANILA RAILROAD COMPANY,
DEFENDANTS-APPELLEES.**

G.R. No. L-21839. April 30, 1968

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

Appeal by plaintiff Insurance Company of North America from the decision of the Court of First Instance of Manila dismissing the action in Civil Case No. 48660.

On October 10, 1960, there Were loaded on “SS Pioneer Mart” at the port of New York 12 cases of cinematograph film, shipped by the Eastman Kodak Co. and consigned to the order of the Prudential Bank & Trust Co., Manila. The shipment had an invoice value of \$8,685.36, and the cargo was insured With plaintiff insurance company against the risk of loss and damage. The “SS Pioneer Mart” was operated by defendant United States Lines Co., a foreign corporation licensed to do business in the Philippines and operating under the name of American Pioneer Lines.

The shipment arrived in Manila on November 6, 1960, and the last package thereof was discharged on November 7, 1960 into defendant Manila Port Service, a subsidiary of defendant Manila Railroad Company, which was the arrastre operator at the Port of Manila. Upon the presentation of the pertinent documents and payment of the arrastre service fees the broker of the consignee made demand for the delivery of the shipment from the Manila Port Service. Of the 12 cases constituting the shipment, only nine cases were first delivered. Later, two cases were found, one of which was found short of its contents. One case was missing and could not be delivered to the consignee.

On November 14, 1960, within the 15-day period from the date of discharge of the last package of the shipment, the broker of the consignee filed a provisional claim for loss and damage with the Manila Port Service for one case missing and one case partly short of its contents. The consignee filed its claim against the United States Lines Co., as operator of the carrying vessel, and against the plaintiff insurance company through the Eastman Kodak Co. for the insurance. The insurance was paid by the plaintiff to the consignee, in the sum of \$1,228.48, and the plaintiff insurance company thereby became subrogated to all the rights of the consignee to recover the value of the loss. Plaintiff made demands upon the United States Lines Co. and with the Manila Port Service for the payment of the sum equivalent to what was paid to the consignee as insurance of the goods that were lost. Upon refusal by the United States Lines Co. and the Manila Port Service to make payment, plaintiff filed an action against the said parties, including the Manila Railroad Co., in the Court of First Instance of Manila, for the recovery of the sum of \$1,228.48 or its peso equivalent at the current rate of exchange, with legal interest from the date of the filing of the complaint plus the costs of the suit. The Manila Railroad Company was made party defendant because the Manila Port Service is a subsidiary of the railroad company.

The action filed by the plaintiff against the defendants was an alternative one — an action in admiralty against the United States Lines Co. on its liability as carrier, and against the Manila Port Service and/or the Manila Railroad Company on their liability as the arrastre operator of the Port of Manila. Thus paragraph 8 of the complaint contains the following allegation:

“8. The losses occurred while the vessel had custody of the cargo and failed to discharge the same or, alternately, after discharge of the cargo, while defendant Port Service had custody of the goods, in either of which case, there was violation of the duty properly to safely carry and discharge the goods on the part of the vessel or, in the alternative, to make delivery of the goods on the part of defendant Port Service.”

After trial the lower court, on June 20, 1963, rendered decision, finding that the total value of the lost merchandise was \$1,116.80, to which had been added the cost of survey of \$37.65 and an over-insurance of \$111.68, such that the total liability arising from the loss amounted to \$1,266.13. The lower court found that the full shipment had been unloaded from the carrying vessel unto the care and custody of defendant Manila Port Service in good order. We quote the following paragraph of the decision:

“Having thus received the said cargo which was fully discharged unto the care and custody of the Manila Port Service, it goes without saying that the responsibility for the loss devolves upon them. As the operator of the arrastre service, it is their duty to receive and take good care of the same in order that they may be delivered completely to the consignee to whom they belong. If any part of the cargo be missing, it is they who should answer for the loss because they are the depositary.”

But while the lower court had declared that defendant Manila Port Service was responsible for the loss, it nevertheless dismissed the case upon the ground that it had no jurisdiction over the action of the plaintiff against defendants Manila Port Service and Manila Railroad Company, it appearing that the value of the claim of the plaintiff against said defendants was less than P5,000.00 so that the action was well within the exclusive jurisdiction of the Municipal Court of Manila. Said the lower court in its decision:

“... This Court holds the view that when this case was filed against the shipping company, it was properly vested with jurisdiction to entertain the same notwithstanding the small amount involved herein, which falls within the jurisdiction of the Municipal Court. The Manila Port Service, however, is an alternative defendant and the claim against the same cannot be considered a mere incident of the admiralty jurisdiction, for it is a separate claim for the recovery of the missing goods from its warehouse with a total value well within the exclusive jurisdiction of the Municipal Court. If the action had been filed directly against the said Manila Port Service, there is no doubt that the same could not be filed with this Court for lack of jurisdiction. It makes no difference that it is made an alternative defendant, because the action against the shipping company falls within the exclusive jurisdiction of the Court of First Instance. If they had filed this case against the said party directly without including the defendant Manila Port Service, there is no doubt that the same could have been entertained. Its jurisdiction could not be questioned. After it has been established, therefore, that the shipping company had been relieved of this cargo by full discharge thereof unto the care and custody of the Manila Port Service, this case assumes an entirely different color. It no longer is an admiralty case but an ordinary civil case which must be governed by the law governing jurisdiction of our courts. It would have been a different situation if the amount alleged herein were more than P5,000, because then after the admiralty aspect had disappeared in this case, the ordinary civil aspect thereof would still bring it within the ordinary jurisdiction of this court, but, as already pointed out, it happens in this case that the amount is so far below the jurisdictional limit of this Court that it must, of necessity, find that it had no jurisdiction to try and determine the controversy with respect to the said party....”

In the present appeal, plaintiff-appellant maintains that the lower court erred: (1) when it ruled that plaintiff's alternative action against defendant operator of the carrying vessel and the defendant arrastre operator as separable; (2) when it ruled that plaintiff's action ceased to be admiralty after the evidence had established that the

shipment had been discharged to the defendant arrastre operator complete and in good order; and (3) in not rendering judgment against defendant Manila Port Service and/or Manila Railroad Company as arrastre operator.

The appeal is well taken. The reason of the lower court in dismissing plaintiff's action is not in accord with the ruling of this Court in a line of decisions.[1] The circumstances obtaining, and the question of law involved, in the case of Rizal Surety and Insurance Co. v. Manila Railroad Co., et al., G.R. No. L-20875, April 30, 1966, are similar to those that We find in the present case. The ruling that We made in the Rizal Surety case, which We herein quote in part, squarely settle the questions involved in the present appeal:

"The sole issue is one purely of law, whether or not the court below had jurisdiction over the case.

"The complaint in this case named as alternative defendants under alternative Causes of action (1) C. F. Sharp & Co., Inc., for breach of contract of carriage by sea, and (2) Manila Port Service and Manila Railroad Company, for violation of arrastre contract. The cause of action against C. F. Sharp & Co., Inc., being in admiralty, comes within the jurisdiction of the Court of First Instance whereas, the cause of action against the Manila Port Service and Manila Railroad Company comes within the exclusive original jurisdiction of the municipal court inasmuch as the amount of the demand is less than P5,000.00,

"At the time the complaint was filed, plaintiff did not know at what precise stage of the series of transactions the loss complained of occurred. If the loss took place in transit, C. F. Sharp & Co., Inc. would be liable therefor, but if the loss occurred after the goods were landed and discharged from the carrying vessel, the Manila Port Service would bear the loss. Hence, the joinder of causes of action and parties defendants in the alternative which is permitted by Section 5 of Rule 2 of the Rules of Court, quoted hereunder:

'SEC. 5. Joinder of causes of action.- Subject to rules regarding jurisdiction, venue and joinder of parties, a party may in one pleading state, in the alternative or otherwise, as many causes of action as he may have against an opposing party (a) if the said causes of action arise out of the same contract, transaction or relation between the parties, or (b) if the causes of action are for demands for money, or are of the same nature and character.

'In the cases falling under clause (a) of the preceding paragraph, the action shall be filed in the inferior court unless any of the causes joined falls within the jurisdiction of the Court of First Instance, in which case it shall be filed in the latter court.

'In the cases falling under clause (b) the jurisdiction shall be determined by the aggregate amount of the demands, if for money or by their nature and character, if otherwise.'

And, since one of the causes of action is cognizable by the Court of First Instance the suit should be filed, as was correctly done by the plaintiff, in said court, notwithstanding that the other cause of action - if standing alone — would fall within the jurisdiction of the municipal court, by reason of the amount of the demand. In *International Harvester Co. of the Philippines v. Judge Aragón*, where a similar action was filed with the municipal court, we held that the municipal court lacked jurisdiction over the case inasmuch as one of the alternative causes of action against the shipping firm, was an action in admiralty, cognizable by the Court of First Instance.

"The subsequent dismissal of the cases against C. F. Sharp & Co., Inc. did not bring the case within the exclusive original jurisdiction of the municipal court nor deprive the Court of First Instance of Manila of the jurisdiction it had already acquired over the case when the complaint was filed. It is well settled that jurisdiction once acquired is not lost but continues until the case is finally terminated,"

WHEREFORE, the decision appealed from should be, as it is hereby, reversed and the defendants-appellees, Manila Port Service and/or Manila Railroad Co., are ordered to pay plaintiff-appellant Insurance Company of North America the sum of \$1,266.13, or its peso equivalent at the current rate of exchange, with legal interest from the date of the filing of the complaint until payment is made; with costs against the said

defendants-appellees. IT IS SO ORDERED.

Reyes, J.B.L.,(Acting C.J.), Dizon, Makalintal,Bengzon, J.P., Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

Judgment reversed.

[1] Insurance Company of North America v. Manila Port Service, et al, L-24887, April 22, 1968; Fulton Insurance Company v. Manila- Railroad Company, et al., L-24263, November 18, 1967, citing: Firemen's Insurance Co. v. Manila Port Service, et al., L-22810, August 31, 1967; The American Insurance Co. y. Macondray & Co., Inc., et al, L-24031, August 19, 1967; Hanover Insurance Co. v. Manila Port Service, et al., L-20976, January 23, 1967; Switzerland Gen Ins. Co., Ltd. v. Java Pacific & Hoegh Lines, et al., L-21760, April 30, 1966.

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