

**THE HANOVER INSURANCE COMPANY, PLAINTIFF-APPELLANT, VS.
UNITED STATES LINES COMPANY, PACIFIC FAR EAST LINE, INC. AND
REPUBLIC OF THE PHILIPPINES, DEFENDANTS-APPELLEES.**

G.R. No. L-26919. November 25, 1969

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

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

Appeal from the judgment of the Court of First Instance of Manila, in its Case No. 61831, dis-missing petitioner-appellant's suit for damages.

Appellant had insured a cargo of materials for paint manufacture shipped by Connel Bros. Company, Ltd. on board the SS "Philippine Bear" of the United States Lines and consigned to National Lead Co. (Phil.) Inc. of Manila. Discharged at the latter port into the custody of the Bureau of Customs Arrastre Service of the Philippine Republic, the cargo was delivered with part of it missing or damaged by rain to the extent of P5,948.00. As insurer, appellant paid the damage and brought suit, as subrogee of the consignee of the cargo, to recover the amount from the shipping company and the Republic as "arrastre" opera-tor.

The action was dismissed as aforesaid by Judge Jose N. Leuterio, on the grounds that the shipping company's liability ended upon deli-very of the cargo to the Customs Arrastre Service and that the Republic was not suable for the negligence of the Customs Arrastre officials.

On appeal to this Court, the insurance company insists that the Republic had shed its immunity from suit by engaging in non--governmental activities.

The appeal must fail. The points raised by appellant were raised and squarely decided in Case G. R. No. L-23139, Mobil Philippines Exploration, Inc. vs. Customs Arrastre Service, prom-ulgated on 17 December 1966 (18 S. C. R. A. 1120), wherein this Court ruled that arrastre operations by the Bureau of Customs were purely incidental to the governmental function of assessing and col-lecting customs duties due on imported merchandise; that in engaging in such necessary incidental activity the Government did not waive its immunity from suit without its express consent. Since that de-cision down to our judgment in Phoenix Assurance Co. vs. Republic of the Philippines, L-16531, rendered only last October (1969),the Mobil doctrine has been consistently upheld and reaffirmed in over twenty decisions of this Court. No adequate reason has been shown here to vary from such well-established and uniform rulings.

The judgment appealed from is affirmed. Costs against appellants.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

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