

THE LONDON ASSURANCE, PLAINTIFF-APPELLANT, VS. REPUBLIC OF THE PHILIPPINES AND/OR BUREAU OF CUSTOMS AND/OR CUSTOMS ARRASTRE SERVICE, IN THEIR CAPACITY AS ARRASTRE OPERATORS AT T...

G.R. No. L-24319. February 10, 1968

Ponente: ANGELES, J.

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ANGELES, J.:

On November 4, 1964, herein plaintiff?appellant, the London Assurance, insurer-subrogee of a shipment of 22 skids electrolytic tinplate waste, filed suit in the Court of First Instance of Manila for the recovery of the sum of P7,235.63, the insured value of said shipment, for which Maritime Company of the Philip-pines issued Bill of Lading No. SF M-8 in the name of Polok, Winters & Company as shipper, and consigned to Consolidated Can Corporation of Mandalu-yong Rizal. Named defendants were the Republic of the Philippines and/or Bureau of Customs and/or Customs Arrastre Service, in their capacity as arras-tre operators; the Reliance Customs Bonded Warehouse and/or Carlos Tan; and Delgado Brokerage Corporation.

While the private defendants filed their res-pective answers to the complaint, the Solicitor Ge-neral moved to dismiss it - as to the State, because it is immune from suit; as to the Bureau of Customs and Customs Arrastre Service, on the ground that they are not juridical entities endowed with legal personality to sue or be sued.

Despite vigorous opposition on the part of the plaintiff, the Court granted the motion to dismiss. The insurance company has appealed insisting that the defendants arrastre operators discharge proprie-tary or non-governmental functions and are, there-fore, suable.

Following a series of similar cases on the sub-ject,[1] the instant appeal must fail. In the very first of these precedents, Mobil Philippines Explora-tion, Inc. v. Customs Arrastre Service and Bureau of Customs, supra, this Court has amply explained why a case like this should be dismissed with respect to the government and its entities, thus - "Although said arrastre function may be deemed proprietary, it is a necessary incident of the primary and govern-mental function of the Bureau of Customs, so that engaging in the same does not necessarily render said Bureau liable to suit. For otherwise, it could not perform its governmental function without necessarily exposing itself to suit. Sovereign immunity granted as to the end, should not be denied as to the necessary means to that end."

IN VIEW HEREOF, the order appealed from hereby affirmed. No costs at this instance.

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

[1] Mobil Phil. Exploration Inc. v. Customs Arrastre Service, L-23139, Dec. 17, 1966; Equitable Insurance & Casualty Co. Inc. v. Smith, Bell & Co. (Phil.) Inc. L-24383, Aug. 26, 1967; Ins. Co. of North America v. Republic

of the Phil. et al. L--27515, Sept. 5, 1967; Phil. First Ins. Co., Inc. v. Customs Arrastre Service et al., L-26951, Sept. 12, 1967.

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