

HANOVER INSURANCE COMPANY, PLAINTIFF AND APPELLANT, VS. MANILA PORT SERVICE AND MANILA RAILROAD COMPANY, DEFENDANTS AND APPELLEES.

G.R. No. L-20976. January 23, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal taken by plaintiff Hanover Insurance Company from the order of dismissal issued by the Court of First Instance of Manila on November 19, 1962, for lack of jurisdiction.

On September 30, 1961, the vessel SS "Hamburg Maru", owned and operated by defendant OSAKA SHOSEN Kaisha Line, took on board at Hamburg, Germany, for shipment to Manila, consignment cargoes including one (1) drum heliogen blue B powder, four (4) bags tylose and one (1) drum anti-skinning agent. The consignee, General Paint Corporation (Philippines) Inc., insured the shipment with plaintiff Hanover Insurance Company for the sum of P3,966.35.

On October 31, 1961 the SS "Hamburg Maru" arrived at the Port of Manila and began discharging its cargoes, including the aforesaid shipment, into the custody of defendant Manila Port Service, the arrastre operator acting as a subsidiary of the Manila Railroad Company. The shipping documents were endorsed and transmitted to General Paint Corporation (Philippines) Inc., through its customs broker, Luzon Brokerage Company, Inc., which paid the charges and proceeded to take delivery of the shipment. The Manila Port Service, however, failed to deliver the drum of anti-skinning agent.

By reason of the loss plaintiff, as insurer, paid to the consignee the amount of P1,089.47, representing its liability under the insurance contract. Then as subrogee of the rights of the consignee plaintiff filed a claim with the arrastre operator for the amount thus ' paid, and upon failure to collect sued in the alternative the owner of the carrying vessel and its agent in the Philippines, American Steamship Agencies, Inc., on the one hand, and the said arrastre operator and its principal on the other, alleging that it was uncertain as to who was the party responsible for the loss of the shipment in question. Defendants Osaka Shosen Kaisha Line and American Steamship Agencies, Inc. filed an answer to the complaint, with a cross-claim against defendants Manila Railroad Company and Manila Port Service. These MO defendants filed separate motions to dismiss both plaintiff's complaint and their co-defendants' cross-claim. The trial court granted the motions in its order dated November 19, 1962, holding that by reason of the amount involved in the complaint and cross-claim against said defendants, they pertained to the exclusive original jurisdiction of the municipal court and not of the Court of First Instance and that therefore there was a misjoinder of causes of action. From that order plaintiff Hanover Insurance Company appealed directly to this Court.

The only question is whether or not the trial court erred in dismissing the complaint as against defendants-appellees, the Manila Railroad Company and the Manila Port Service.

Appellant contends there is no misjoinder of causes of action, and cites Section 13, Rule 3 of the Rules of Court,

which provides that "where the plaintiff is uncertain against which of several persons he is entitled to relief, he may join any or all of them as defendants in the alternative, although a right to relief against one may be inconsistent with a right to relief against the other."

Appellees' position is that the cause of action against the steamship company is one in admiralty and therefore cognizable by the Court of First Instance, while the cause of action against the arrastre operator is based on contract of deposit (*Insurance Company of North America vs. Manila Port Service, et al.*, G. R. No. L-16573, November 29, 1961), concerning which the total amount demanded in the complaint furnishes the jurisdictional test. Since the demand is only for P1,389.47, it is contended, jurisdiction pertains to the municipal court and not to the Court of First Instance insofar as said demand is asserted against appellees.

This question has been settled by this Court in *Rizal Surety & Insurance Company vs. Manila Railroad Company, et al.*, G. R. No. L-20875, April 30, 1966, where we said:

"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 such 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. (*Sapico vs. Manila Oceanic Lines*, L-18776, January 30, 1964.) In *International Harvester Co. of the Philippines vs. Judge Aragon*, (*supra*, note 1.) 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 joinder of the two causes of action against the alternative defendants avoids unnecessary multiplicity of suits and, without sacrificing any substantial rights of the parties, removes the undue disadvantage in which plaintiff would be placed by having to prove its case in different courts by means of evidence that is within the exclusive knowledge of said defendants.

The order appealed from is therefore reversed and the case remanded for trial and judgment on the merits.

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

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