

MONICO G. ROLDAN, PLAINTIFF AND APPELLANT, VS. LIM PONZO & CO., DEFENDANT AND APPELLEE.*G.R. No. 11325. December 07, 1917*

Ponente: CARSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11325/>**CARSON, J.:**

Plaintiff in this action seeks to recover damages in the sum of P3,780.12 for the alleged failure of the defendant company to live up to its contract for the transportation of 2,244 packages of sugar from plaintiff's hacienda to Iloilo. Defendant admits the execution of the contract, the receipt from the plaintiff of 2,244 packages of sugar for transportation, and the loss of a part of this sugar. Counsel for defendant insists, however, that it should not be held responsible for its failure to carry out the contract, because, as it alleges, the sugar was lost in a wreck in the river Jalaud, without fault on the part of the owner, the patron, or the crew of the vessel.

There would not appear to be much question as to the fact that the defendant company's lorch was wrecked in the river Jalaud, and that of the 2,244 packages of plaintiff's sugar aboard the vessel, only 1,022 packages were saved in a more or less damaged condition.

At the trial in the court below, the plaintiff undertook to establish the facts upon which he based his claim for damages and introduced evidence tending to disclose that the lorch had been wrecked and the sugar lost through the negligence and lack of skill of the master of the lorch in the management of his vessel. After the plaintiff had submitted all his evidence and before the defendant company had called any of its witnesses, the trial judge peremptorily dismissed the complaint on the ground that it was neither alleged or proved that the plaintiff had complied with the provisions of section 366 of the Commercial Code. That section is as follows:

"Within the twenty-four hours following the receipt of the merchandise a claim may be brought against the carrier on account of damage or average found therein on opening the packages, provided that the indication of the damage of average giving rise to the claim cannot be ascertained from the exterior of said packages, in which case said claim would only be admitted on the receipt of the packages.

"After the periods mentioned have elapsed, or after the transportation charges have been paid, no claim whatsoever shall be admitted against the carrier with regard to the condition in which the goods transported were delivered."

We agree with plaintiff's counsel that the dismissal of the complaint on this ground was error which necessitates the return of the record to the court below. Article 366 of the Commercial Code is limited to cases of claims for damage to goods actually turned over by the carrier and received by the consignee, whether those damages be apparent from an examination of the packages in which the goods are delivered, or of such a character that the nature and extent of the damage is not apparent until the packages are opened and the contents examined. Clearly it has no application in cases wherein the goods entrusted to the carrier are not delivered by the carrier to the consignee. In such cases there can be no question of a claim for damages suffered by the goods while in transport, since the claim for damages arises exclusively out of the failure to make delivery.

The object sought to be attained by the requirement of the submission of claims in pursuance of this article is to compel the consignee of goods entrusted to a carrier to make prompt demand for settlement of alleged damages suffered by the goods while in transport, so that the carrier will be enabled to verify all such claims at the time of delivery or within twenty-four hours thereafter, and if necessary fix responsibility and secure evidence as to the nature and extent of the alleged damages to the goods while the matter is still fresh in the minds of the parties.

To this end provision is made in article S67 of the Code for the prompt settlement of disputes as to the nature and extent of the alleged damages, and for the final disposition of the damaged goods, which is wholly inconsistent with the contention that these articles are applicable in cases wherein the claim against the carrier is founded upon his failure to make delivery of the goods entrusted to him.

Article 367 of the Commercial Code is as follows:

"If there should occur doubts and disputes between the consignee and the carrier with regard to the condition of goods transported at the time of their delivery to the former, the said goods shall be examined by experts appointed by the parties, and a third one, in case of disagreement, appointed by the judicial authority, the result of the examination always being reduced to writing; and if the persons interested should not agree to the report of the experts and could not reach an agreement, said judicial authority shall have the merchandise deposited in a safe warehouse, and the parties interested shall make use of their rights in the proper manner."

It is very clear, then, that in so far as this action seeks to recover damages for defendant's failure to deliver 1,222 packages or bayones of sugar, the failure to make claim for such damages under the provisions of article 366 of the Commercial Code in no wise affects the respective rights of the parties.

In so far as this action is founded on a claim for damages resulting from the wetting of the 1,022 packages of sugar which were saved from the wreck, it seems clear that if these 1,022 packages of sugar were delivered by the carrier and received by the consignee under and in pursuance of the terms of the contract, this claim for damages would be defeated by the plaintiff's failure to make claim therefor in accordance with the terms of article 366 of the Code.

We are of opinion, however, that the necessity for making the claim in accordance with that article did not arise if, as it is alleged, these 1,022 packages of sugar were recovered from the wreck by the plaintiff, himself, in an effort, by his own activities, to save his property from total loss. The measures to be taken under the terms of article 367 of the Code when the parties are unable to arrive at an amicable settlement of claims for damages set up in accordance with article 366, quite clearly indicate that the necessity for the presentation of claims under this article arises only in those cases wherein the carrier makes delivery and the consignee receives the goods in pursuance of the terms of the contract.

Until the defendant has had an opportunity to submit his evidence it is impossible to determine under what conditions these 1,022 packages of sugar came into the possession of the plaintiff, or to determine whether his claim for damages by the wetting of this sugar, if well founded in every other respect, is or should be defeated by his failure to make claim for such damages in the manner and form indicated in article 366 of the Commercial Code.

We conclude that the judgment entered in the court below should be reversed and the record remanded to the court below for a new trial upon all the issues raised by the pleadings, it being expressly understood, however, that the evidence already in the record may be considered as submitted at the new trial, without prejudice to the right of either party to offer such additional evidence as he may deem proper in support of the allegations set forth in the pleadings. No costs will be taxed in this instance. So ordered.

Arellano, C. J., Torres, Johnson, Araullo, Street, and Malcolm, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.