

SUN BROTHERS & COMPANY, PLAINTIFF AND APPELLEE, VS. MANILA PORT SERVICE AND MANILA RAILROAD COMPANY, DEFENDANTS AND APPELLANTS.

G.R. No. 13500. April 29, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a judgment of the Court of First Instance of Manila, Hon. E. Soriano, presiding, ordering defendants to pay to plaintiff jointly and severally the sum of P1,209.00, with legal interest from the filing of the complaint until fully paid, plus damages in the amount of P1,000.00 and the costs.

The facts are not in issue and the case was appealed directly to this Court. The facts found by the court are briefly stated as follows:

"From the said evidence, this Court finds the following: That plaintiff purchased 'One (1) Case Hosiery Knitting Machine Spare Parts' from the Isiwaki Precision Works, Ltd., of Japan, that the said article arrived on board the S/S LENEVERRETT of the Everett Orient Line at the Port of Manila on August 22, 1956; that upon being advised by the Prudential Bank & Trust Company of the latter's receipt of the shipping documents covering the article in question, plaintiff paid the value thereof (Exhibits A and A-1); that after said payment and the issuance to plaintiff of the corresponding bank papers and shipping documents, plaintiff took steps to secure the necessary tax exemption, certificate from the Department of Finance, which certificate was issued sometime on September 7, 1956 (Exhibit B); that the said certificate was necessary in order that the said article may be released by the Bureau of Customs without the payment of taxes; that plaintiff engaged the services of the City Brokerage Co., Inc., for the release of the said article from the Bureau of Customs and its delivery to plaintiff; that the representative of the said City Brokerage Co., Inc., together with the Custom's examiner and another representative of defendants, however, could not locate the article in question after a search of about five days; that in this impasse, the said broker, for and in behalf of plaintiff, filed with the Office of defendant Manila Port Service a Provisional claim on September 15, 1956, for the loss of the said cargo (Exhibit, E for plaintiff and Exhibit 1 for defendants); that, the said claim was followed by a formal claim (Exhibits C and C—1), and that the said claim, was denied by defendants on the ground that it was filed after the expiration of the fifteen-day period provided in Paragraph 15 (Exhibit 2—A) of the Management Contract (Exhibit 2) entered into by and between the Bureau of Customs and defendants."

The first question to be decided is whether or not defendants should be absolved from the claim because it was presented after the lapse of 24 days from the arrival of the vessel. The second is that assuming that defendants are liable, their liability can not exceed P500.00, in accordance with the Management Contract entered into between them and the Bureau of Customs. The court below found that the cargo in question was received by the defendant Manila Port Service in the same quantity and condition as when they were received by the carrying vessel, in conformity with defendants' answer. The court also found that plaintiff is not bound by the Management Contract because it is not a signatory thereto. So it rendered the judgment above quoted, against which this appeal has been prosecuted.

The important question raised on this appeal is, Is the 15-day limit for the presentation of a claim against the Manila Port Service, as stipulated in the contract between it and the Bureau of Customs, binding upon the plaintiff-appellee. We note that in a letter addressed to the, attorney for the plaintiff by the Commissioner of Customs, the latter made this explanation or interpretation of the disputed portion of the Management Contract:

"It is the understanding of this Office that under said Paragraph 15 of the contract, the Manila Port Service is relieved in any event from any and all responsibility or liability for loss, damage, misdelivery, and/or non-delivery of imported cargoes unless (a) within one year from the discharge of the goods from the carrying vessels no suit is instituted in the court of proper jurisdiction and/or (b) within 15 days counted from the discharge of the cargoes in the piers claims for such loss, etc. are filed with the Manila Port Service.

"To our mind, these remedies given by the contract to claimants for losses of cargoes are alternative, i. e., should claimant fail to file their claims within 15 days as aforesaid, they may bring suit against the Manila Port Service in the court of proper jurisdiction within one year from the date of the discharge of the cargoes and that failure on the part of claimants to take advantage of the 15-day period remedy is not a "bar to resort to the remedy of filing the claims in court so long as the prescribed time of one year has not lapsed." ((Exhibit "F-1")

While the interpretation of the agreement above given by the Commissioner of Customs is not binding upon the courts, same has persuasive value.

The pertinent provision of the Management Contract which is applicable to the present case is the following:

"* * * : in any event the CONTRACTOR shall be relieved and released of any and all responsibility or liability for loss, damage, misdelivery, and/or non-delivery of goods, unless suit in the court of proper jurisdiction is brought within a period of one (1) year from the date of the discharge of the goods, or from the date when the claim for the value of such goods have been rejected or denied by the CONTRACTOR, provided that such claim shall have been filed with the CONTRACTOR within fifteen (15) days from the date of discharge of the last package from the carrying vessel.

The CONTRACTOR shall be solely responsible for any and all injury or damage that may happen to any person whomsoever, on account of the negligence or carelessness of the CONTRACTOR, its agents or employees, in the performance of any undertaking by it to be performed under the terms of this contract, and shall save and hold the BUREAU at all times harmless therefrom and the whole thereof." (par. 15, Exh. "2".)

The court below held that the Management Contract between the Manila Port Service and the Commissioner of Customs is not binding on plaintiff-appellee insofar as it provides that a claim for loss of goods shipped and landed at Manila into the custody of the defendant must be filed in 15 days. Reason for the ruling is that plaintiff-appellee is not a party to said Management Contract. We prefer to adopt the ruling in a modified form, thus, that under the circumstances in the case at bar, the provision of the Management Contract limiting liability of defendant to cases in which claim is tiled within 15 days from the date of discharge of the last package from the carrying vessel, can not be made to apply to plaintiff-appellee in the case at bar to defeat the latter's claim.

The Management Contract was entered into between the Commissioner of Customs and the Manila Port Service principally to regulate the arrastre service at the Port of Manila, namely, the business of receiving cargo, handling it, caring for it and delivering same to owners, for and on behalf of the Bureau of Customs. It does not pretend to define and fix the responsibilities of consignees or importers of cargo, except in the disputed clause; hence, it does not appear that the public has been apprised of its provisions. It does not appear that it has ever been given such publicity that owners or consignees of cargo might know how to protect their rights; neither does it appear that consignees of cargo are ever given notice or advised thereof, especially that part limiting the duty of cargo owners to file claims for lost cargo in 15 days, when cargo consigned to them is received. In the case at bar, there is no

showing that plaintiff-appellee was ever apprised of such provision as the one now being sought to be enforced to his prejudice. How can plaintiff-appellee be considered as bound by its terms, unaware as he is thereof? As the lower court itself stated, the provision in question appears furthermore to be unreasonable, as the time given to file claims is too short in view of the numerous regulations that the consignee has to comply with before he can demand delivery of his cargo.

In defendants-appellants' brief, claim is made that plaintiff had been aware of the 15-day limitation period three years before the transaction in question took place. This claim is based on the testimony of an employee of the City Brokerage Company in whose hands the taking away of the cargo from the pier was entrusted by plaintiff-appellee. However, in the decision of the court below no mention of this supposed knowledge on the part of the plaintiff-appellee of the conditions of the Management Contract is made. The court must have refused to believe that the plaintiff, through the City Brokerage Company, had knowledge of the Management Contract and of the privilege it grants the defendants about the 15-day limitation period. As, the appeal was made to us directly, such that only questions of law can be raised before us, such claim of fact, which is not found by the trial court as a fact proved by the evidence, must be rejected. But in addition to the above considerations, the demand for the cargo in the case at bar was actually made some five or six days before the formal provisional claim for the loss was filed, such that the customs officers and the employees of the Manila Port Service had already started searching for it. If the contract must be reasonably interpreted, the filing of the claim should be considered made when demand for the cargo was made, at which time defendants started looking for the cargo, which was then missing. In fact, it was at that time that the claim for the cargo was made. So it is not clear that the date of the first demand for the cargo took place beyond the 15-day period. So that under the circumstances obtaining in the case at bar, it does not clearly appear that the claim for the cargo actually took place beyond the 15-day period. We hold that defendants can not invoke the limitation in question as a defense to the action of plaintiff-appellee.

In the memorandum filed by the defendants-appellants, in lieu of oral argument, our attention is called to the case of Tomas Grocery vs. Delgado Bros., 105 Phil., 549. That case has no pertinence to the case at bar. In that case the consignee or importer withdrew the goods from the piers after signing a gate pass, in which a portion of the Management Contract is quoted, which portion limits the liability of the contractor to P500.00, unless the value of the goods have been declared to be greater. The notice in the gate pass authorizing the importer to bring the cargo out of the pier was held by us to bind the owner of the goods, because he signed the pass and, therefore, knew its provisions and is estopped from denying the conditions therein. There was no gate pass in the case at bar as the goods were never withdrawn, from the piers because they were lost while in the possession of defendants-appellants. The consignee or importer can not, therefore, be bound by the provision in the Management Contract limiting liability of a contractor to P500.00.

For the foregoing considerations, we find that the judgment appealed from should be, as it hereby is, affirmed, with costs against appellants.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

Padilla, J., took no part.

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