

NORTHERN MOTORS, INC., PLAINTIFF AND APPELLANT, VS. PRINCE LINE, ROOSEVELT STEAMSHIP AGENCY INC., COLUMBIAN ROPE COMPANY OF THE PHILIPPINES, INC., AND/OR DELGADO BROTHERS, INC.,...

G.R. No. 13884. February 29, 1960

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13884/>

BARRERA, J.:

This is an appeal interposed directly with this Court by plaintiff Northern Motors Inc., as owner of certain imported articles, from the decision of the Court of First Instance of Manila (in Civil Case No. 29098) ordering defendant Delgado Brothers, Inc., as the Arrastre Contractor in the Port of Manila, to pay said plaintiff the amount of P500.00 and costs, instead of P3,117.53 as demanded by it in its complaint. The facts as found and considered by the trial court must, therefore, control the resolution of this appeal.

Plaintiff-appellant is the owner, by transfer from Liddel & Co., Inc., of a consignment of merchandise, consisting of 33 cases of auto spare parts and accessories, covered by Bill of Lading No. 19, discharged in Manila into the custody of defendant Delgado Brothers, Inc., and later cleared and taken delivery of by Luzon Brokerage Co., Inc., as agents of the consignee, upon presentation of the corresponding release papers from the Bureau of Customs. However, instead of 33 cases, only 32 were delivered to plaintiff's broker. Plaintiff, thereupon, demanded payment of the reasonable value (P3,117.53) of the missing case from defendant Delgado Brothers, Inc., but later offered to refund only P500.00, claiming that under paragraph 15 of its Management Contract, its liability is limited only to P500.00 unless the value of the merchandise is otherwise specified or manifested. Such was the issue presented by the pleadings, after the case was taken to court. After a short trial consisting in admissions and stipulations, the court rendered a decision which, in part, reads:

"It appearing that defendant Delgado Brothers, Inc. admitted having received the 33 cases in good order condition from the shipper and that it delivered only 32 cases to the consignee, the other defendants are now exempt from any liability. The only question for us to resolve is, as to whether or not paragraph 15 of the management contract limiting the liability of the arrastre contractor to P500.00 may be invoked by the Delgado Brothers, Inc.

Plaintiff contends that the management contract in question is not binding upon it for the reason that it was not a party thereto.

"We have had occasion to resolve a similar question in the case of Jose Bernabe and Co. us. Delgado Brothers, Inc., Civil Case No. 306150, Court of First Instance, Manila. We advanced the opinion in that case, that paragraph 15 of the management contract is binding upon the importer or consignee. In that case we said:

"The Court is of the opinion that the plaintiff is bound by the provisions of the management contract. As a matter of fact, it complied with such provisions as were necessary for it to take delivery of the cargo. Plaintiff should not take advantage of the management contract when it suits him to do so, and reject its provisions

when it thinks otherwise.'

"We have no reason to change our opinion. We believe that in the instant case, as in the case we have mentioned above, plaintiff is bound by the provisions of the management contract. The general rule that only parties to the contract are bound to its provisions is not absolute. (*Mendoza vs. PAL, Inc.*, G. R. No. L-3673 promulgated on February 29, 1952 and *Krauffman vs. PNB*, 42 Phil., 182)."

Plaintiff's motion for reconsideration having been denied, the present appeal was interposed.

The two legal issues to be determined in this appeal are (1) whether the provisions of Paragraph 15 of the Management Contract between appellee Delgado Brothers, Inc. and the Bureau of Customs are valid, and (2) in the affirmative, whether plaintiff-appellant is bound by said provisions.

Anent the first issue, Paragraph 15 of the Management Contract, where pertinent, provides:

"15. It is further understood and strictly agreed that the CONTRACTOR (appellee) shall at its own expenses handle all merchandise upon or over said piers, wharves and other designated places, and at its own expense perform all work undertaken by it hereunder diligently and in a skillful workmanlike and efficient manner; and the CONTRACTOR (appellee) shall be solely responsible as an independent contractor for, and promptly pay to the steamship company, consignee, consignor, or other interested party or parties the invoice value of each package but which in no case shall be more than five hundred pesos (P500.00) for each package, unless the value is otherwise specified or manifested, and the corresponding arrastre charges had been paid, including all damages that may be suffered on account of loss, destruction, or damage of any merchandise while in the custody or under the control of the CONTRACTOR (appellee) upon any pier, wharf or other designated place under the supervision of the BUREAU, * * *" (Italics supplied)

Appellant claims that the above quoted provision is null and void, as it limits the liability of appellee for the loss, destruction or damage of any merchandise, to P500.00 per package, contending that to sustain the validity of the limitation would be to encourage acts of conversion and unjust enrichment on the part of the arrastre operator. Appellant, however, overlooks the fact that the limitation of appellee's liability under said provision, is not absolute or unqualified, for if the value of the merchandise is specified or manifested by the consignee, and the corresponding arrastre charges are paid on the basis of the declared value, the limitation does not apply. Consequently, the questioned provision is neither unfair nor arbitrary, as contended, because the consignee has it in his hands to hold, if he so wishes, the arrastre operator responsible for the full value of his merchandise by merely specifying it in any of the various documents required of him,[1] in clearing the merchandise from the customs. For then, the appellee arrastre operator, by reason of the payment to it of a commensurate charge based on the higher declared value of the merchandise, could and should take extraordinary care of the special or valuable cargo. In this manner, there would be mutuality. What would, indeed, be unfair and arbitrary is to hold the arrastre operator liable for the full value of the merchandise after the consignee has paid the arrastre charges only a basis much lower than the true value of the goods.

This Court has held as valid and binding a similar provision in a bill of lading limiting the carrier's liability to a specific amount, unless the shipper expressly declares a higher valuation and pays the corresponding rate thereon. (*H. E. Heacock Company vs. Macondray & Company, Inc.*, 42 Phil., 205; *Freixas and Company vs. Pacific Mail Steamship Co.*, 42 Phil., 199.)[2] In the *H. E. Heacock Company* case, we stated that—

"Three kinds of stipulation have often been made in a bill of lading. The first is one exempting the carrier from any and all liability for loss or damage occasioned by its own negligence. The second is one providing for an unqualified limitation of such liability to an agreed valuation. And the third is one limiting the liability of the carrier to an agreed, valuation unless the shipper declares a higher value and pays a higher rate of freight. According to an almost uniform weight of authority, the first and second kinds of stipulations are invalid as

being contrary to public policy, but the third is valid and enforceable." (Italics supplied.)

The principle above enunciated was finally incorporated as law in Article 1749 of the new Civil Code, which reads:

"ART. 1749. A stipulation that the common carrier's liability is limited to "the value of the goods appearing in the bill of lading, unless the shipper or owner declares a greater value, is binding."

The same is true in the warehousing business where limitation on the warehouseman's liability is universally recognized and upheld. Thus—

"However, in the absence of a prohibitory statute, the validity of a limitation of the amount of liability is generally upheld, where with a view to obtaining a compensation commensurate to the risk assumed, the warehouseman stipulates that unless the valuation of the property committed to his care is disclosed, his responsibility for, loss or damage shall not exceed a certain amount or that in case of loss or damages the valuation fixed in the receipt shall be controlling." (Am. Jur., Vol. 56, p. 419, citing Taussig Ms. Bode, 134 Cal. 260, 66 P. 159, 54 LRA 772, 86 Am. St. Rep. 250; Central Storage Whse. Co. vs. Pickering, 114 Ohio St. 76, 161 NE 29, 141 ALE 768).

The legal relationship created between the consignee or owner of the imported goods who withdraws¹ them from the customs house and the arrastre operator whose services are utilized for the purpose, is sufficiently akin to that existing between the consignee or owner of shipped goods and the common carrier or that between a depositor and the warehouseman, to warrant, in our opinion, the application of the same or similar principle. Consequently, we hold that, the provisions of Paragraph 15 of the Management Contract in question are valid and legal.

In the case of Caltex (Philippines), Inc., et al. vs. Delgado Brothers, Inc., et al., (96 Phil., S68), this Court, speaking through the Chief Justice, characterized this same Management Contract between appellee and the Bureau of Customs as "Not an ordinary agreement involving merely the parties therein as the same affects the public in general, particularly as to the rates of an exemptions from the arrastre charges." In fact, the contract is awarded only after a public bidding in which the conditions thereof are made public for consideration by prospective bidders.

We come now to the determination of the second issue of whether appellant was bound by the provisions of said Paragraph 15 of the Management Contract. Appellant contends that since it was not a party to the said contract, it was not bound by its provisions. The facts of this case and the law applicable thereto do not support this view.

Article 1311 of the new Civil Code, states:

"ART. 1311. Contracts take effect only between the parties, their assigns and heirs, except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law. The heir is not liable beyond the value of the property he received from the decedent.

"If a contract should contain some stipulation in favor of a third person, he may demand its fulfillment provided he communicated his acceptance to the obligor before its revocation. A mere incidental benefit or interest of a person is not sufficient. The contracting parties must have clearly and deliverately conferred a favor upon a third person."

Tested in the light of the above legal provision, Paragraph 15 of the Management Contract in question, it is believed, contains provisions which are in the nature of stipulations pour autrui, that is, for the benefit or in favor of a third party, the appellant in the case at bar. By virtue thereof, appellee is expected to render service, not to the Bureau of Customs, but specifically and principally to the importers or consignees of the cargoes. Upon the importer's or consignee's compliance with certain conditions, namely, presentation of approved delivery permits,

payment of arrastre fees, etc., he is entitled to receive, and the appellee arrastre contractor is obliged to discharge and deliver, the cargoes or merchandise corresponding to those: described in the delivery permit of said importer or consignee. There can scarcely be any doubt that by said provision in the contract; appellee and, the Bureau of Customs deliberately and purposely conferred benefit upon appellant, because it is to the latter that the merchandise was to be delivered in good order and payment made, in the event of damage, destruction, or loss thereof while in appellee's control or custody.

Having arrived at the conclusion that said contract contains provisions which clearly and deliberately confer a favor upon a third person, (using the language of the article aforecited), the next inquiry is whether the beneficiary, herein appellant, has accepted said favor and communicated his acceptance to the obligor, herein appellee.

In the pleadings filed by the parties, as well as in the decision of the court a quo, we find ample evidence of appellant's acceptance of said favor and its communication thereof to appellee.

Paragraph III of appellant's complaint[3] contains the following allegation:

"Delgado Brothers had been the operator of the arrastre service at the Port of Manila up to February 29, 1956 and was authorized as such to deliver cargoes discharged by carrying vessels into its custody on presentation of release papers from the Bureau of Customs and the steamship carrier and/or its agents."

Stipulation Nos. 1 and 2[4]read:

"1. That the Delgado Brothers received 33 cases from the carrier.

"2. That Delgado Brothers only delivered 32 cases to Luzon Brokerage Company, Inc." (Appellant's agent)."

We quote from the decision.[5]

"* * * The parties agreed.

"(1) That defendant Delgado Brothers, Inc. received from the carrier, goods covered by bill of lading No. 19;

"(2) That in the said bill of lading, 33 cases of auto spare parts and accessories were included;

"(3) That Delgado Brothers, Inc. in its capacity as arrastre contractor received the 33 cases in apparent good order and condition as per corresponding tally sheets;

"(4) That Delgado Brothers, Inc. only delivered to the consignee 32 cases out of the 33 cases;

"(5) That paragraph 15 of the management contract entered into by the Delgado Brothers, Inc. and the Bureau of Customs limits to only P500.00 the liability of the arrastre contractor for undeclared value of goods received.

"* * *. As a matter of fact it (appellant) complied with such provisions (of the Management Contract) as were necessary for it to take delivery of the cargo. * * *."

It is undisputed, therefore, that appellant took delivery of its cargo from appellee, as arrastre operator under the Management Contract, and after the presentation and signing by it, through its duly authorized broker, of the pertinent documents covering the release of said cargoes.

According to the law,[6] before delivery of the cargo could be made, the consignee or owner, or his representative must first clear them from the Bureau of Customs and obtain therefrom a Delivery Permit and a Gate Pass. Among the conditions imposed by law for this purpose is for the owner or consignee to submit to the Collector of Customs a written declaration containing, inter alia, a "just and faithful account of the actual cost of said

merchandise, including and specifying the value of all containers or coverings, and that nothing has been omitted therefrom or concealed whereby the Government of the Republic of the Philippines might be defrauded of any part of the duties lawfully due on the merchandise,." In the delivery permit thus obtained, the following "Important Notice" is stamped or printed:

"IMPORTANT NOTICE

"All cargo covered by this permit are delivered to and received by Consignee's and importer's representative subject to all the terms and conditions of the Management Contract between the Bureau of Customs and Delgado Brothers, Inc. (appellee), (of whoever may be the arrastre contractor) dated October 21, 1950, and all amendments thereto or alterations thereof, particularly but not limited to Paragraph 15 thereof limiting the company liability to P500.00 per package, unless the value of the goods is otherwise specified or manifested and the corresponding arrastre charges have been paid * * * (Italics supplied.)

In the Gate Pass which covers the receipt and release of the cargo duly signed by the importer's or consignee's representative, the following annotation also appears:

"The undersigned, duly authorized to respectively represent the Bureau of Customs, the above named consignee, and the arrastre service operator, hereby certify to the correctness of the above description of the goods covered by this Gate Pass. Issuance of this Gate Pass constitutes delivery to, and receipt by CONSIGNEE of the goods as described herein, subject to all the terms and conditions contained in the Management Contract between the Bureau of Customs and Delgado Brothers, Inc. (appellee) (or whoever may be the arrastre contractor) dated October 21, 1950, and all amendments thereto or alterations thereon, particularly but not limited to Paragraph 15 thereof limiting the company liability to P500.00 per package, unless the value of the goods is otherwise specified or manifested * * *" (Italics supplied.)

Even, therefore, if appellant was not a signatory to said Management Contract, it legally became a party thereto when it (through its broker, the Luzon Brokerage Co. Inc.) obtained the delivery permit and gate pass in the above manner prescribed by law and, making use of them, demanded from appellee the delivery of the 33 cases, pursuant to appellee's undertaking in virtue of the very same Management Contract. Again, it became bound when it brought court action against appellee, also by virtue of the latter's obligations as the arrastre contractor under the same Management Contract, for the purpose of recovering the reasonable value of the missing case of auto spare parts and accessories. Under the circumstances, as the trial court aptly observed: "Plaintiff should not take advantage of the Management Contract when it suits him to do so and reject its provisions when it thinks otherwise." The principle is the same or similar to that involved in the case of *Mendoza vs. Philippine Air Lines, Inc.* (90 Phil., 836), wherein it was held that—

"* * * even if the LVN Pictures, Inc. as consignor of its own Initiative, and acting independently of Mendoza for the time being, made Mendoza as consignee, a stranger to the contract if that is possible, nevertheless, when he, Mendoza, appeared at the Pili Air Port armed with the copy of the Air way Bill (Exh. 1) demanding the delivery of the shipment to him, he thereby made himself a party to the contract of transportation. * * *. His demand for the delivery of 'the can of film to him at the Pili Air Port may be regarded as a notice of his acceptance of the stipulation of the delivery in his favor contained in' the contract of carriage and delivery. In this case, he also made himself a party to the contract, or at least has come to court to enforce it. His cause of action must necessarily be founded on its breach." (Italics supplied.)

We do not find it necessary to pass, in detail, upon appellant's claim (which we find without merit) that the limited liability provision in Paragraph 15 of the Management Contract in question has no statutory basis under Act No. 3002, as amended, inasmuch as the question was never raised by appellant in the court a quo. The rule is well-settled that no question will be considered by the appellate court which has not been raised in the court

below. (Toribio vs. Decasa, 55 Phil., 461; Sanagustin vs. Barrios, 68 Phil. 475.) When a party deliberately adopts a certain theory, and the case is tried and decided upon the theory in the court below, he will not be permitted to change his theory on appeal because, to permit him to do so, would be unfair to the adverse party. (Molina vs. Somes, 24 Phil., 49; Agoncillo vs. Javier, 38 Phil., 424.)

Wherefore, finding no reversible error in the decision appealed from, the same is hereby affirmed, with costs against the plaintiff-appellant. So ordered.

Bengzon, Montemayor, Bautista Angelo, Labrador, Reyes, J.B.L., and Endencia, JJ., concur.
Paras, C.J., and Gutierrez David, J., reserve their votes.

[1] Pursuant to Sections 1267-68 (f) and 1273 of the Revised Administrative Code.

[2] See also McCarthy vs. Barber Steamship Lines Inc., 45 Phil., 488.

[3] Page 9, Record on Appeal.

[4] Pages 2 and 3, Record on Appeal.

[5] Pages 25-26, and 27, Record on Appeal.

[6] Secs. 1267, 1268-(b); 1269 and 1273, Rev. Adm. Code.

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.