

JOSE BERNABE & CO., INC., PLAINTIFF AND APPELLANT, VS. DELGADO BROTHERS, INC., DEFENDANT AND APPELLEE.

G.R. No. 14360. February 29, 1960

Ponente: BARRERA, J.

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BARRERA, J.:

Plaintiff-appellant Jose Bernabe & Co., owner of a shipment of machine spare parts unloaded into the custody of defendant-appellee Delgado Brothers, Inc., as arrastre operator in the Port of Manila, filed in the Court of First Instance, of Manila (in Civil Case No. 30615) a complaint against appellee, seeking to recover from the latter the sum of P2,835.00, representing the replacement value of a diesel machine flywheel damaged, allegedly, while in the custody of appellee. Appellee in his answer denied liability therefor, and on the date of the hearing, the case was submitted, upon the following:

"STIPULATION OF FACTS

"COME NOW the parties in the above-entitled case, through their respective counsel, and to this Honorable Court respectfully submit the following Stipulation of Facts:

"1. That plaintiff is the owner of a shipment consisting of machine spare parts unloaded from the S. S. 'Bencleuch' in the Port of Manila, under Registry No. 1434, Bill of Lading No. 22, which arrived in Manila on December 5, 1955;

"2. That at the time the S. S. 'Bencleuch' arrived in Manila and unloaded her cargo, the defendant was the arrastre contractor for the Port of Manila and, as such, in charge of receiving cargo unloaded from vessels unto the piers, and delivery of same to consignee or their duly authorized representatives, pursuant to and subject to the Management Contract entered into between the Bureau of Customs and herein defendant a copy of which is hereto attached, marked Annex 'A' and made a part hereof. The parties stipulate, however, that plaintiff is not a signatory to the said Management Contract;

"3. That the aforementioned shipment included a Diesel Engine GL913 (Flywheel for Tangye) which was unloaded from the S. S. 'Bencleuch' and was received at nighttime by defendant in the course of its arrastre operations uncrated and unpacked and in apparent good order condition, and the corresponding¹ clean Tally Sheet therefore was issued, as per attached Annex 'B';

"4. That at the time plaintiff's representative broker appeared before the defendant to take delivery of said shipment consigned to plaintiff, said representative requested for a Bad Order Examination of the Flywheel which inspection was conducted by a representative of the defendant in the presence of plaintiff's representative, and the result of the examination appears in the B. O. Examination Report hereto attached, marked Annex 'C';

"5. That as a result of the findings of the B. O. Examination of the Flywheel in question, plaintiff's representative filed a Formal Claim on December 28, 1955 in further reference to claim under Ref. 8193-E-12-55;

"6. That plaintiff's representative or broker took delivery of the Flywheel in question from the defendant by signing and presenting permit to deliver imported goods with entry No. 99075, File No. 5100, and in reverse side of which there appears the following notice in rubber stamp, to wit:

'IMPORTANT NOTICE

'This permit is presented subject to all the terms and conditions of the Management Contract between the Bureau of Customs and Delgado Brothers, Inc., dated October 21, 1950, and amendments thereof 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, declared or manifested and the corresponding arrastre charges have been paid; providing exemptions or restrictions from liability unless suit is brought within one (1) year from the date of the arrival of the goods or from the date when the claim for the value of the goods has been rejected, provided such claim is filed with the Company within 15 days from date of arrival of goods.

a photostatic copy of which is hereto attached and marked Annex 'D' hereof;

"7. That upon the presentation of the permit to deliver imported goods with the defendant, herein defendant issued a Gate Pass, No. 36051, and in which there appears the following printed words, to wit:

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., 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, providing exemptions from liability unless suit is brought within one (1) year from the date when the claim for the value of the goods has been rejected, provided such claim is filed with the Company within 15 days from the date of the arrival of the goods a photostatic copy of which is hereto attached and marked Annex 'E'.

"The Gate Pass containing the above notation was also duly signed by plaintiff's representative or broker.

"8. That the parties herein reserve the right to present evidence on points not covered by the above Stipulation of Facts;

"9. That the parties herein reserve the right to present simultaneous memoranda within thirty days from receipt of order admitting the Stipulation of Facts."

Subsequently, the parties submitted a "Supplemental Stipulation of Facts", as follows:

"SUPPLEMENTAL STIPULATION OF FACTS

"Come Now the parties in the above-entitled case, and in accordance with the commitment made in open court on December 18, 1956, respectfully submit this Supplemental Stipulation of Facts:

"1. That the parties admit that, as to the replacement cost of Flywheel GL-913, had plaintiff presented a witness, he would have identified the attached Letter, dated December 15, 1956, of the Pacific Exchange Corporation giving quotation of replacement cost, and which letter is hereto attached marked as Annex 'E' and made an integral part hereof;

"2. That to date plaintiff has not as yet received the replacement for the said Flywheel."

On the basis of the foregoing Stipulation and Supplemental Stipulation of Facts, the court rendered, decision which, in part, reads:

"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.

"The management contract provides for a liability of not more than P500.00. This being the case, defendant is only liable to this amount.

IN VIEW OF THE FOREGOING, judgment is hereby rendered in favor, of the plaintiff and against the defendant, ordering the latter to pay to the former, the amount of P500.00, plus 25% of this amount as attorney's fees. Defendant shall also pay the costs."

Not satisfied with said decision of plaintiff appealed to the Court of Appeals, but said court, in its resolution dated August 5, 1958, elevated the case to us, on the ground that it involves only question of law.

The pivotal issue presented by the appeal is whether the provisions of Paragraph 15 of the Management Contract between appellee and, the Bureau of Customs, limiting appellee's liability to P500.00 per package of merchandise, unless the value thereof is otherwise specified or manifested and the corresponding arrastre charges had been paid, are binding upon plaintiff-appellant, despite the fact that the latter was never a signatory to the contract.

Paragraph 15 of the Management Contract in question, reads in part, as follows:

"15. It is further understood and strictly agreed that the Contractor (appellee) shall at its own expense 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.)

In support of appellant's contention that the above contractual provision (the intrinsic validity of which is not questioned in this case) is not binding upon it, reliance is placed on the provisions of Article 1311 of the Civil Code, reading thus:

"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 deliberately conferred a favor upon a third person."

Appellant argues, that in the light of the above-quoted article, contracts are binding and enforceable only between the parties, their assigns and heirs, the only exception being a third person not a party thereto, in whose favor a benefit is clearly and deliberately conferred. Although appellant admits that the aforementioned Management Contract contains provisions "benefitting persons not parties thereto for said contract pertains to serving the public

(sic)", and that "anyone desiring to avail of such services has the right to demand it despite the fact that he was not a party to the Management Contract", it claims, nevertheless, that such third parties can not be bound by stipulations and conditions thereunder which are onerous or prejudicial to them.

Appellant's argument does not, accord with and is not justified by the spirit (if not the letter)) of the law. When a third person accepts the benefits of a contract, he is also bound, to accept the concomitant obligations corresponding thereto. As the lower court correctly 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."

Appellant, further, contends that the contractual obligation, in the aforequoted Paragraph 15 of the Management Contract limiting appellee's liability is arbitrary, unjust, and unreasonable, being practically forced upon it, since there was absolutely no way for it to receive the imported cargo except by engaging appellee's services as sole operator of the arrastre service in the Port of Manila. Its consent, it is claimed, was not voluntary, and hence, not valid.

In answer, it may be stated that appellant could adequately protect itself, by simply specifying or manifesting the actual value of the imported cargo in the various documents required of it under the law,[1] and paying the corresponding arrastre charges of the same, pursuant to the provisions of said Paragraph 15, and of the "Important Notice" contained in the Delivery Permit and Gate Pass which its representatives or broker accepts, signs, and utilizes, upon taking delivery of the imported cargo from appellee arrastre operator, in which event, the latter expressly binds itself and undertakes to reimburse appellant the actual value of the cargo, in case of its damage, destruction, or loss while under its custody. If appellant failed to so state the value of its merchandise in any of these documents required by law before it cleared its goods, and paid only the arrastre charge based on a lesser value, it can not in justice now demand the full undeclared value.

We find, therefore, that Paragraph 15 of the Management Contract is binding upon the herein plaintiff-appellant. Decision appealed from is hereby affirmed, with costs against the plaintiff-appellant. So ordered.

Bengzon, Montemayor, Bautista Angelo, Labrador, Reyes, J. B. L., and Endencia, JJ., concur.

Gutierrez David, J., reserves his vote.

Padilla, J., on leave, took no part.

[1] Import entry (Sec. 1267, Rev. Adm. Code); written declaration (Sec. 1268-6, in connection with Secs. 1269 and 1271, Rev. Adm. Code).

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