

DAVID CONSUNJI AND FREDESVINDA A. CONSUNJI, PLAINTIFFS AND APPELLEES VS. THE MANILA PORT SERVICE AND THE MANILA RAILROAD COMPANY, DEFENDANTS AND APPELLANTS.

G.R. No. 15551. November 29, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

David Consunji and Fredesvinda A. Consunji were consignees of 247 cartons of medical supplies unloaded at the Port of Manila from the United States ex SS Lisholt on April 26, 1957. As arrastre operator, the Manila Port Service took charge of the merchandise, and in due course delivered to plaintiffs or their agent 243 cartons, thereby incurring a shortage of four (4) cartons.

Wherefore this complaint in the Manila municipal court for the sum of P460.38 representing the invoice value of the undelivered goods, plus damages and attorneys fees totalling P620.36.

The defense rested mainly on the failure of plaintiffs to file a claim for the shortage within 15 days, as provided in its Management Contract with the Bureau of Customs, which reads partly:

"* * * 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 15 (fifteen) days from the date of the discharge of the last package from the carrying vessel."

Submitted for decision upon a stipulation of facts, the case was decided for plaintiffs. Defendant appealed to the Court of First Instance wherein the parties reported the same stipulation. One witness for plaintiffs testified, and documentary evidence was introduced. Again, the court gave judgment for plaintiffs.

Defendants tendered for revision here the question of law concerning the 15-day period. There is no denying that plaintiffs presented no claim to Manila Port Service within 15 days "from the date of discharge of the last package from the carrying vessel." But they maintain, and the lower court agreed with them, that the fifteen-day period was immaterial, because their action was filed "within one year from the date of the discharge of the goods." Appellees—and said court—would interpret the herein-above-quoted provision of the Management Contract to mean that "the arrastre contractor shall be relieved from liability for loss of goods unless:

"1. 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

"2. Suit in the Court of proper jurisdiction is brought within a period of one (1) year 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."

We do not think this interpretation may be sustained. Carriers or depositaries sometimes require presentation of claims within a short time after delivery as a condition precedent to their liability for losses. Such requirement is not empty formalism. It has a definite purpose, i.e. to afford the carrier or depositary a reasonable opportunity and facilities to check the validity of the claims while the facts are still fresh in the minds of the persons who took part in the transaction and the documents are still available.[1] Now, we see no reason why Manila Port Service—for whose benefit the provision was evidently inserted—should require prompt presentation of claim in one instance, while waiving it in the other. Bearing this in mind, we hold that the proviso about presentation of claim was intended to apply both to the case where suit is brot within one year from the date of discharge of the goods, and to the case where suit is brot within one year from the date when such claim is rejected. It is clear that the paragraph, while imposing a condition precedent to the filing of any suit for losses, at the same time gave the demandant (who has filed the claim) the option either to bring his action (in one year) without waiting for the contractor's resolution on his claim, or to wait for such resolution and then sue if it is unfavorable (in one year).

At any rate, a proviso (provided that such claim, etc.) refers to the clause or distinct portion of the enactment which immediately precedes it[2] and restricts the general operation of the enacting part of the section to which it is attached or of the matter which precedes it.[3]

The matter which precedes the proviso here discussed is the suit against the contractor, and the enacting part to which it (proviso) is attached, directs that "the qon-tractor shall be released from * * * liability unless suit * * * is brot within a period of one year etc." The proviso could not have referred only to "or from the date when the claim for the value of such goods have been rejected," because that portion is incomplete, expresses no directive, constitutes no enactment to be restricted by such proviso.

In this connection, we realize the seeming inequity of applying this 15-day proviso where the consignee comes to know the damage or loss only after the lapse of such 15-day period, for instance, where delivery by the contractor takes place 16 days after discharge of the last package from the vessel. And it might be unfair to apply the limitation where the claimant comes to know of such condition precedent only after the 15-day period. But such exceptional considerations do not come presently into play, plaintiffs having asserted none of them.[4] On the contrary, impliedly admitting knowledge of both the condition and the shortage within' the 15-day time[5], they stood on the proposition, as stated, that having instituted suit within one year after the discharge of the goods from the carrying vessel, they had properly filed their action, notwithstanding no claim had been made within 15 days. Wherefore,, as their position turns out to be legally untenable, the judgment must be, and is hereby reversed, and the defendants are absolved from all liability. Costs against the appellees.

Paras, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Gutierrez David, Paredes and Dizon, JJ., concur.

Judgment reversed.

[1] Roldan vs. Lim Ponzo, 37 Phil., 285.

[2] 82 Corpus Juris Secundum, p. 887.

[3] Sutherland Statutory Construction, Vol. II (3rd ed.) pp. 469, 470, and 474.

[4] Cf. Domestic Insurance vs. Manila Port Service, L-15060. promulgated August 31, 1960.

[5] They do not even plead insufficiency of time to file the claim before the deadline. (Cf. *Villanueva vs. Barber Wilhemsen Line*, *supra*, p. 34).

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