ABOITIZ SHIPPING CORPORATION, PETITIONER, VS. NEW INDIA ASSURANCE COMPANY, LTD., RESPONDENT.

G.R. No. 156978. August 24, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In its Motion for Reconsideration,[1] petitioner seeks the reversal of this Court's Decision[2] dated May 2, 2006, and the referral of this case to the Court En Banc allegedly due to its inconsistency with the rulings in Monarch Insurance Co., Inc. v. Court of Appeals[3] and Aboitiz Shipping Corporation v. General Accident Fire and Life Assurance Corporation, Ltd.[4] (GAFLAC).

The pertinent facts are undisputed.

On October 31, 1980, M/V P. Aboitiz, a vessel owned by petitioner, sank on her voyage from Hong Kong to Malaysia. Respondent is the insurer of the lost cargoes loaded on board M/V P. Aboitiz and consigned to General Textile, Inc. After respondent indemnified General Textile, Inc., it was subrogated to its rights, interests and actions against petitioner.

Respondent filed an action docketed as Civil Case No. 82-1475 before the Regional Trial Court of Manila, Branch 36, for recovery against petitioner, among others, claiming P142,401.60 as actual damages, attorney's fees, exemplary damages and costs of suit. On November 20, 1989, the trial court held petitioner liable for the total value of the lost cargoes instead of applying the doctrine of limited liability.[5] The Court of Appeals affirmed in toto the trial court's decision and denied petitioner's motion for reconsideration.[6]

Petitioner elevated the case to this Court raising the issue of whether the doctrine of limited liability, which limits respondent's award of damages to its pro rata share in the insurance proceeds, applies in this case.[7] In our May 2, 2006 Decision, we denied the petition for lack of merit and affirmed the decision of the Court of Appeals holding petitioner liable for the total value of the lost cargo.[8]

Hence, this Motion for Reconsideration, raising the following as issues:

> I.
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> THE DECISION DISREGARDED THE EARLIER RULINGS OF THIS HONORABLE COURT IN GAFLAC (217 SCRA 259) AND THE MONARCH CASES (333 SCRA 71), WHERE BOTH HELD THAT ABOITIZ' LIABILITY IS LIMITED TO THE VALUE OF THE INSURANCE PROCEEDS NOTWITHSTANDING THE FINDING THAT ABOITIZ WAS AT FAULT.
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> II.
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> THE DECISION VIOLATES PARAGRAPH 3, SECTION 4 OF ARTICLE VIII OF THE CONSTITUTION WHICH STATES IN PART THAT - "NO DOCTRINE OR PRINCIPLE OF LAW LAID DOWN BY THE COURT IN A DECISION RENDERED EN BANC OR IN DIVISION MAY BE MODIFIED OR REVERSED EXCEPT BY THE COURT SITTING EN BANC." (CITATIONS OMITTED.)[9]

Simply, the issue is: Did the May 2, 2006 Decision modify or reverse the rulings in Monarch and GAFLAC contrary to Section 4(3)[10] of Article VIII of the Constitution?

Petitioner seeks the referral of this case to the Court En Banc alleging that our May 2, 2006 Decision modified or reversed the doctrines in GAFLAC and Monarch, where we ruled that petitioner's liability was limited to the claimants' pro rata share in the insurance proceeds in view of the doctrine of limited liability. Invoking Section 4(3) of Article VIII of the Constitution, petitioner contends that no doctrine or principle laid down by the Court in a decision rendered in division may be modified or reversed, except by the Court sitting En Banc.

Respondent counters that petitioner should be held liable for the total value of the lost cargo. It insists that the doctrine of limited liability does not apply because petitioner was found negligent.

We are not swayed to reconsider.

Petitioner's arguments are mere rehash of those already submitted to and pronounced without merit by this Court in our May 2, 2006 Decision. The basic issues have already been passed upon and the motion discloses no cogent reason to warrant modification of our May 2, 2006 Decision. For all litigation must come to an end at some point, the Court En Banc should be shielded from the importunings of litigants who resort to the convenience of an appeal to the Court En Banc merely to hamper or delay the final resolution of the case. The Court En Banc is not an appellate court to which our May 2, 2006 Decision may be appealed under the present circumstances.

A perusal of GAFLAC and Monarch vis-á-vis the instant case will show that our May 2, 2006 Decision did not modify or reverse the doctrines in GAFLAC and Monarch. The factual findings of this case were different from GAFLAC, which precludes this Court to apply the principles enunciated therein. Here, petitioner was found concurrently negligent with the ship captain and crew, while in GAFLAC, there is no such finding. Then the peculiar circumstances in Monarch called for the application of the doctrine of limited liability, as we have extensively discussed in our May 2, 2006 Decision.

We need only to stress that from the nature of their business and for reasons of public policy, common carriers are bound to observe extraordinary diligence over the goods they transport according to all the circumstances of each case.[11] In the event of loss, destruction or deterioration of the insured goods, common carriers are responsible, unless they can prove that the loss, destruction or deterioration was brought about by the causes specified in Article 1734 of the Civil Code.[12] In all other cases, common carriers are presumed to have been at fault or to have acted negligently, unless they prove that they observed extraordinary diligence.[13]

The weather was moderate when M/V P. Aboitiz sank. Both the trial and appellate courts also ruled that the M/V P. Aboitiz sank due to its unseaworthiness and not due to typhoon. To limit petitioner's liability to the amount of the insurance proceeds, it has the burden of showing that the unseaworthiness of the vessel was not due to its fault or negligence. But it failed to do so. Where the shipowner fails to overcome the presumption of negligence, the doctrine of limited liability cannot be applied.[14]

WHEREFORE, petitioner's motion for reconsideration and referral to the Court En Banc is DENIED WITH FINALITY. No further pleadings shall be allowed.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1] Rollo, pp. 474-481.

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[2]Aboitiz Shipping Corporation v. New India Assurance Company, Ltd., G.R. No. 156978, May 2, 2006, 488 SCRA 563.

[3]G.R. Nos. 92735, 94867 and 95578, June 8, 2000, 333 SCRA 71.

[4]G.R. No. 100446, January 21, 1993, 217 SCRA 359.

[5] Rollo, p. 166.

[6]Id. at 10-23 and 55.

[7] Aboitiz Shipping Corporation v. New India Assurance Company, Ltd., supra at 569-570.

[8]Id. at 573.

[9] Rollo, p. 474.

[10] Section 4...

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(3) ...no doctrine or principle of law laid down by the court in a decision rendered en banc or in division may be modified or reversed except by the court sitting en banc.

[11] CIVIL CODE, Art. 1733.

Art. 1733. Common carriers, from the nature of their business and for reasons of public policy, are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case.

Such extraordinary diligence in vigilance over the goods is further expressed in Articles 1734, 1735, and 1745, Nos. 5, 6, and 7, while the extraordinary diligence for the safety of the passengers is further set forth in Articles 1755 and 1756.

[12]Id. at Art. 1734.

Art. 1734. Common carriers are responsible for the loss, destruction, or deterioration of the goods, unless the same is due to any of the following causes only:

(1) Flood, storm, earthquake, lightning, or other natural disaster or calamity;
(2) Act of the public enemy in war, whether international or civil;
(3) Act or omission of the shipper or owner of the goods;
(4) The character of the goods or defects in the packing or in the containers;
(5) Order or act of competent public authority.

[13] Id. at Art. 1735.

Art. 1735. In all cases other than those mentioned in Nos. 1, 2, 3, 4, and 5 of the preceding article, if the goods are lost, destroyed or deteriorated, common carriers are presumed to have been at fault or to have acted negligently, unless they prove that they observed extraordinary diligence as required in Article 1733.

[14] Central Shipping Company, Inc. v. Insurance Company of North America, G.R. No. 150751, September 20, 2004, 438 SCRA 511, 523-524.

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