THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLANT, VS. THE INSULAR MARITIME CO., DEFENDANT AND APPELLEE.

G.R. No. 21495. March 18, 1924

Ponente: MALCOLM, J.

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MALCOLM, J.:

The Government of the Philippine Islands seeks by this action to recover from The Insular Maritime Company the sum of P30,437.91 for repairs made by the Bureau of Commerce and Industry on the motor ship Insular.

The Insular Maritime Company was organized with a capital of P150,000. It became the owner of one vessel only, the Insular, valued at P150,000. On October 29, 1919. The Insular Maritime Company asked the Bureau of Commerce and Industry to perform certain repairs on the Insular. The Government consented and terminated said Government of the P. I. vs. Insular Maritime Co. repairs on November 29 of the same year. Subsequent thereto, on April 15, 1920, the Insular suffered a total loss by fire.

The bill prepared by the chief accountant of the Bureau of Commerce and Industry for work done on the motor ship Insular in the amount of P30,437.91, was dated July 31, 1920. Collection of the claim was attempted pursuant to formal demand made by the Acting Insular Auditor of date April 30, 1921.

It will thus be noted, as was emphasized by the defense and by His Honor, the trial judge, that no steps were taken by the Government to secure payment for the repairs until after the loss of the vessel Insular. The first error assigned by the Attorney-General addressed to this finding of fact is accordingly without merit.

The trial, judge further found in effect, as a legal conclusion, that the loss of the vessel Insular extinguished the obligation. The Attorney-General challenges the correctness of this view.

The decision of the trial judge was predicated on his understanding of the provisions of article 591 of the Code of Commerce in relation with other articles of the same Code, and with the decision of this court in the case of Philippine Shipping Co. vs. Garcia Vergara [1906], 6 Phil., 281). As to the applicability of article 591 of the Code of Commerce, there is nothing in the language to denote that the liability of the owners of a vessel is wiped out by the loss of that vessel. As to the applicability of the decision in the case of Philippine Shipping Co. vs. Garcia Vergara, supra, the facts are not the same. There, the owners and agents of a vessel causing the loss of another vessel by collision were held "not liable beyond the vessel itself causing the collision," but were "not required to pay such indemnification for the reason that the obligation thus incurred has been extinguished on account of the loss of the thing bound for the payment thereof." Here, there is a contractual relation which remains unaffected by the loss of the thing concerned in the contract and which is governed principally by the provisions of the Civil Code.

The rights and liabilities of owners of ships are in many respects essentially the same as in the case of other owners of things. As a general rule, the owners of a vessel and the vessel itself are liable for necessary repairs.

Naturally the total destruction of the vessel extinguishes a maritime lien, as there is no longer any res to which it can attach. But the total destruction of the vessel does not affect the liability of the owners for repairs on the vessel completed before its loss.

It is but fair to say that what has been stated in this decision more accurately expresses the consensus of opinion in the court than it does the views of the writer, who sees more in the appellee's case than do his colleagues in the court.

The trial court was accordingly right in its exposition of the facts but not in its application of the law. Judgment must therefore be as it is hereby reversed, and in lieu of the judgment appealed from, another shall be entered here in favor of the plaintiff and against the defendant for the sum of P30,437.91 with legal interest from July 20, 1921, when the complaint was presented, until payment. Without special finding as to costs in either instance, it is so ordered.

Araullo, C. J., Johnson, Street, Avancena, Ostrand, Johns, and Romuadez, JJ., concur.

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