

**MANILA RAILROAD COMPANY AND MANILA PORT SERVICE,
PETITIONERS, VS. THE HON. CARMELINO G. ALVENDIA, JUDGE,
COURT OF FIRST INSTANCE OF MANILA, THE HON. ESTRELLA ABAD
SANTOS, JUDGE,...**

G.R. No. 24262. May 24, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

As subrogee of the consignees P. Austria & Co., Inc. and Apisa & Co., Inc., the Empire Insurance Co. filed suit on May 24, 1963 in the City Court of Manila to recover the sums of P186.00 and P990.48, plus attorney's fees of P100.00 and P500.00, respectively, on two alleged causes of action involving short deliveries of shipments of flavored ovaltine. Sued thereunder was the Manila Railroad Company, for transactions had with, and acts performed thru, its "agent and subsidiary" the Manila Port Service, which then handled arrastre operations in the port of Manila.

A judgment against defendant Manila Railroad Company was rendered by the inferior court. Appeal therefrom to the Court of First Instance of Manila was taken by said defendant, the appeal bond however being filed by its aforesaid "agent and subsidiary", Manila Port Service.

At said Court of First Instance, the complaint was reproduced.[1] Answer thereto was filed by both Manila Railroad Co., and Manila Port Service as defendants.

Subsequently, the parties entered into stipulations of facts, in which the Manila Port Service was referred to as a defendant in the suit.

Rendering judgment on September 18, 1964, the Court of First Instance of Manila dismissed the appeal, without resolving the contentions of the parties on the merits, solely upon the ground that the only defendant before the inferior court was the Manila Railroad Company and the appeal bond not having been filed by it but by the Manila Port Service, not a party therein, no appeal was duly perfected.

From said decision, appeal was sought to be taken. Again, however, it was the Manila Port Service which posted an appeal bond. For the same reason adverted to, appeal was refused. And, hence, Manila Railroad Co. and Manila Port Service resorted to the present action here for certiorari and mandamus with preliminary injunction to compel respondent Judge to approve and remit the appeal from his decision of September 18, 1964.

The record clearly shows that the Manila Port Service litigated in the Court of First Instance as defendant. It filed an answer as such. And the parties recognized its status as defendant in the two stipulations of facts entered into. It freely submitted itself to the court's jurisdiction, with subsequent express acquiescence of the plaintiff.

Plaintiff however maintained in its opposition to the motion for reconsideration before the Court of First Instance (Petition, Annex G), that "there is no showing that Manila Port Service has legal personality or is a juridical

person which could be a party in a civil action." Precisely for this reason, however, the Manila Port Service must be deemed part of the Manila Railroad Co., not a separate entity, in a suit against the latter based on arrastre operations undertaken by it through its "agent and subsidiary" Manila Port Service. Not having a separate juridical personality from the Manila Railroad Co., its filing of an appeal bond is perforce an act of the Manila Railroad Co., not that of a separate and different person.

Since the appeal from the decision of September 18, 1964 would raise the same point already resolved herein, the same becomes unnecessary. Respondent Judge should therefore be ordered to render a decision upon the merits in the case in question.

WHEREFORE, the petition is hereby granted and respondent Judge's decision of September 18, 1964 is hereby set aside and the Court of First Instance of Manila is hereby ordered to decide the Civil Case No. 55263 therein on the merits. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.

[1] Civil Case No. 55263.

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