

**OHTA DEVELOPMENT COMPANY, PLAINTIFF AND APPELLEE, VS.
STEAMSHIP “POMPEY”, ALFREDO GALVEZ AND
NATIONAL COAL COMPANY, DEFENDANTS AND APPELLANTS.**

G. R. No. 24658. March 31, 1926

Ponente: AVANCEÑA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-24658/>

AVANCEÑA, C.J.:

The judgment appealed from sentences the defendants to pay the plaintiff the sum of P8,557.06, as damages suffered by the latter by reason of the destruction of its pier and the loss of its merchandise then stored on said pier.

From the year 1913, plaintiff was the owner of a pier situated in Talomo Bay, Davao. On the western side of this pier were two groups of posts, three to a group, about 20 feet apart and about 2 feet from the pier itself, which served as a protection to the pier against the impact of vessels. Between 1921 and 1922, this pier was repaired, replacing such material as was not in good condition, and driving about 150 piles of pagatpat and 60 of molave. According to the witness Sixto Babao, the officer in charge of the forest station of that province, pagatpat, when placed in salt water, lasts from five to six years.

At about 7 o'clock in the morning of July 23, 1923, the steamship Pompey, in command of Captain Alfredo Galvez and' possessing a certificate of public convenience issued by the Commissioner of Public Utility in the name of "The National Coal Company/" carrying cargo consisting principally of flour and rice-for the plaintiff, docked alongside the said pier. The ship docked with her bow facing towards the land and fastened her ropes to the posts on the pier. The evidence shows that, previously, other ships docking alongside the said pier had the bow facing towards the land and fastened a rope to a tree situated farther west on the beach, a precaution taken to avoid the ship from getting too close to the pier. When the Pompey docked, at the time in question, she did not stretch a rope to the tree on the shore, neither did she drop her bow anchors. After being thus docked they proceeded to unload the flour and rice which was first deposited on the pier and later transported to the plaintiff's warehouse on land, where it was officially receipted for. The work of discharging and the hauling of the cargo to the warehouse of the plaintiff was done without any interference on the part of the plaintiff and exclusively by laborers and the crew of the ship. The unloading of the cargo on to the pier was done in a hurry and their being but fifteen or twenty laborers engaged in the hauling of the same to the plaintiff's warehouse, a large amount of cargo accumulated on the dock, with the result that at ten minutes past eleven on the same morning the pier sank with all the merchandise.

It appears that at the time the pier sank there was a current from west to east. As to this point the evidence in the record is conflicting but, after studying it, we believe there actually was a current at that time. According to Captain Calvo, and judging by the condition of the sea as appears from one of the photographs presented in evidence, there was a strong undercurrent. The flour which floated after the sinking of the dock drifted from west to east. The pier, when it sank, leaned towards the east, as well as the posts, which did not collapse completely.

After the sinking of the pier the two groups of piles that served as a defense also leaned towards the east, going beyond the western line formerly occupied by the pier; and the hull of the ship came to a stop at a point beyond where the piles of defense formerly stood, as will be noticed from the photograph, Exhibit B, taken after the accident, and in which a man may be seen standing on the edge of the sunken pier supporting himself on the hull of the ship. In view of all of these circumstances it is evident that the current forced the ship towards the pier, the impact of which caused it to sink.

The sinking could not have been caused, as the defense contends, by the weight of the cargo and by the poor condition of the dock, because according to the evidence it had been recently repaired and, further, that the dock did not fall from its base but leaned towards the east, as did also the posts and defense piles which facts indicate that the dock received the impact of the ship from west to east. In support of its contention of the defense presented, as its principal evidence, the testimony of Captain Razon, who served as first mate of the Pompey on that trip, but we cannot give much weight to the testimony of this witness. He affirmed that the defense piles fell without coming in contact with the ship, which is inconceivable since the piles were not attached to the pier but were 2 feet away from it, so that it cannot be understood how the sinking of the dock could have affected the defense piles. The subsequent contact of the ship with the pier, as shown in the photographs presented as evidence, was explained by this witness who states that, the vessel being tied to the posts of the pier when the latter sank, the ship was carried along on account of the ropes; but neither can this explanation be accepted because the posts to which the ropes were tied, except one, did not sink but only inclined. Furthermore, the inclination of these posts, which did not fall, does not explain the shifting of the ship to the space formerly occupied by the dock, taking into account that, according to his testimony, the ship docked about 8 feet away from the pier and the inclination of the posts barely represents a distance of 1 foot from the base. Finally, this witness testified that after the ship had docked he noticed that the pier was in a rotten condition notwithstanding which, and realizing the danger of unloading, he did not take any precaution and proceeded to discharge the cargo, for the reason that he considered it a matter for the owners of the pier and not for him to take the necessary precautions.

Our conclusion is that the dock sank on account of the impact of the ship as a result of the strong current at the time; that the ship was not fastened with a rope to a tree on shore and that the bow anchors had not been dropped.

Appellants challenged the personality of the plaintiff as a duly organized corporation. But besides the fact that there is evidence of this personality, appellants cannot challenge it after having acknowledged same when entering into the contract with the plaintiff as such corporation for the transportation of its merchandise.

Appellants urge that, according to the bills of lading of the lost merchandise, the defendant National Coal Company's liability ceased when the said merchandise was unloaded and placed on the dock. This contention is without merit. There is nothing in the bills of lading to uphold it. Article 619 of the Code of Commerce provides that the captain shall be answerable for the cargo from the moment that it is delivered to him at the wharf or alongside the ship in the harbor of embarkation until delivered on the shore or wharf of the port of discharge. Under this provision of the law it is the delivery of the cargo at the port of discharge that terminates the captain's responsibility as to the cargo. In the instant case, when the merchandise was lost on account of the sinking of the dock it had not yet been delivered and consequently it was under the responsibility of the captain. The defendant National Coal Company, as the operator, is responsible for the indemnities arising from the lack of skill or negligence of the captain. (Articles 587 and 618 of the Code of Commerce.)

Appellants also contend that, at any rate, the liability of the other defendants is subsidiary and limited to what the steamship Pompey may answer for. This argument seems to be based upon article 587 of the Code of Commerce which authorizes the shipowner to abandon the ship with all its tackle and freight earned during the voyage in order to answer for his liability to third persons. But this is inapplicable, for the reason that in this case there was

no abandonment of the ship. We do not believe that appellants based their contention upon article 837 which refers to collisions, because that is not the case here.

There may be other phases of the case which we have not decided because they have not been raised in the briefs. What we have said decides all the errors assigned by the appellants.

The judgment appealed from is affirmed with costs against the appellants. So ordered.

Street, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

Ostrand, J., dissents.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.