

**ROYAL INSURANCE COMPANY, PLAINTIFF AND APPELLEE, VS.
AMERICAN PIONEER LINE, ET AL, DEFENDANTS, REPUBLIC OF THE
PHILIPPINES, DEFENDANT AND APPELLANT.***G.R. No. 25323. November 15, 1967*

Ponente: BENGZON, J.P., J.

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Arriving in Manila from New York on December 17, 1962, the SS "Pioneer Ming" discharged unto the custody of the Bureau of Customs as arrastre operator, thirty-two (32) packages of auto parts consigned to the order of White House Auto Supply. Of the cargo which was insured with Royal Insurance Company, only thirty-one (31) packages were received by the consignee. The loss of one case worth P732.26 was paid by the Royal Insurance Company which then proceeded to claim said amount from either the shipowner or its agent or from the arrastre operator.

When liability was denied, the Royal Insurance Company, as subrogee to the consignee, sued in the alternative on December 7, 1963 for the recovery of said amount, the American Pioneer Line, United States Line Company, Manila Port Service, Manila Railroad Company, and the Republic of the Philippines as arrastre operator, depending on whether the loss occurred before or after transfer of the custody of goods to the Bureau of Customs.

Defendant American Pioneer Line and United States Lines Company denied liability, alleging delivery of the cargo to the custody of the Bureau of Customs. The Manila Port Service and the Manila Railroad Company moved to dismiss on the ground that since November 21, 1962, they ceased to operate the arrastre service so that they cannot be held liable for said cargo which arrived in Manila on December 7, 1962. The Bureau of Customs also moved to dismiss, alleging that the amount involved being P732.26, the case falls under the jurisdiction of the Municipal Court.

Regarding the first motion, the Court of First Instance ruled that the same raised questions of fact which can be decided only after trial. The second motion was also denied on the ground that the plaintiff was invoking the Court of First Instance's admiralty jurisdiction so that the amount claimed is not the jurisdictional norm.

Subsequently, on February 8, 1964, the Republic of the Philippines through the Customs Arrastre Service, answered alleging due diligence on its part, lack of the court's jurisdiction due to the amount involved, and in an amended answer alleged non-compliance with Act No. 3083, as amended,[1] and non-suability of the State.

On September 15, 1965, the Court of First Instance absolved the Manila Port Service and the Manila Railroad Company because on December 7, 1962, the day of the unloading of the cargo, the said defendants had ceased to operate the arrastre service. It was already the Republic of the Philippines thru the Bureau of Customs and the Customs Arrastre Service that conducted arrastre operations. Thus, the Republic was ordered to pay plaintiff P732.26 with legal interest plus P200.00 attorney's fees and costs.

The Republic appealed to Us, asserting that it may not be sued. The appeal must prosper. It is now settled that the

Republic of the Philippines, in performing its primary function of taxation through its agencies — the Bureau of Customs and the Customs Arrastre Service, may not be sued without its consent. Neither may its agencies, even if a function, proprietary in nature, the arrastre service, is also performed. The reason is that the same is but a necessary incident to its primary function of taxation. For obvious reasons of public policy, such a necessary and incidental function cannot cause the Republic or its agencies to be subjected to suit.[2] Besides, the claim being a money claim, the same should have been filed with the Auditor General as required by Act 3083, as amended by Commonwealth Act 327.[3] The present claim being for a fixed amount determinable by reference to fairly easily accessible papers and documents, the same does not appear to partake of the nature of unliquidated claims outside of the Auditor General's power to decide.[4]

Wherefore, the judgment appealed from is reversed and the case against defendant-appellant is dismissed. No costs. So ordered,

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

Judgment reversed.

[1] Act 3083, as amended by Commonwealth Act 327, provides for the filing of money claims against the Government with the office of the Auditor General.

[2] *Mobil Philippines Exploration vs. Customs Arrastre Service and Bureau of Customs*, L-23139, December 17, 1966.

[3] *Equitable Insurance & Casualty Co., Inc. vs. Smith Bell & Co. and/or Bureau of Customs*, L-24383, August 26, 1967.

[4] *Insurance Company of North America vs. Republic*, L-27517, September 15, 1967.

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