

**METRO PORT SERVICE, INC. (FORMERLY E. RAZON, INC.),
PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT AND THE
HOME INSURANCE COMPANY, RESPONDENTS.**

G.R. No. 66253. August 31, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review on certiorari seeking the review of the decision dated October 25, 1983 of the respondent Intermediate Appellate Court and which affirmed the decision of the lower court adjudging petitioner liable, to pay private respondent the sum of P16,381.97 with interest at the legal rate, the sum of P1,000.00 as attorney's fees and its proportionate share of the costs, as well as said court's Resolution dated January 12, 1984 which denied petitioner's motion for reconsideration.

The facts of the case are simple enough.

As insurer-subrogee, private respondent instituted Civil Case No. 90186 before the Court of First Instance of Manila, entitled "The Home Insurance Co. versus Marchessini Lines, Citadel Lines, Inc., and/or E. Razon, Inc. and/or Ajax Customs Brokerage."

The action was to recover from the defendants the amount that private respondent paid American Wire and Cable Co., Inc. (consignee) under its policy for losses and damages to an insured shipment, the transportation of which was handled by defendants, one after the other.

The shipment, which was transported from New York to Manila on board the S/S "BURYBATES", consisted of synthetic resins, insulating materials, machinery and copper wire, contained in several packages. It arrived in Manila on March 18, 1972 and was discharged dockside unto the care and custody of petitioner, the arrastre operator in the Port of Manila.

At the time of the discharge of the shipment from the carrying vessel, it was noted that said cargo had already sustained shortages and that some packages were in bad order and damaged condition. So when the shipment was turned over to the petitioner, turn-over surveys were jointly prepared and accomplished by checkers of both the vessel and the arrastre operator.[1]

From March 29 to June 1, 1972, deliveries of the shipment were made by petitioner to the consignee's broker, the defendant Ajax Customs Brokerage. At this stage of the cargo handling, the shipment had already sustained a shortage of 11 pallets and 28 of the packages delivered to the broker were already in bad order and damaged condition.

The shortage of 11 pallets was covered by a certificate of delivery[2] issued by petitioner and the 28 bad order packages were covered by bad order certificates[3] also issued by petitioner.

In the meantime, on March 24, 1972, the consignee presented to petitioner a "provisional" claim for the full value

of the shipment.

On September 16, 1972, the consignee submitted to petitioner a "formal" claim for the actual value of the loss sustained by the shipment.

In the course of the proceedings before the trial court, defendants Marchessini Lines and Citadel Lines settled the claim for the loss attributed to the vessel. The case, therefore proceeded only against remaining defendants E. Razon, Inc. (now petitioner) and Ajax Brokerage Corp. who were adjudged liable to plaintiff, now private respondent.

On appeal to the Intermediate Appellate Court, the decision appealed from was affirmed.

Petitioner E. Razon, Inc. manifested before the Court a quo on November 8, 1975 that its liability, if any, should be P16,381.97 -- per private respondent's computations -- instead of P19,931.15 as per its own computations.[4]

This was taken into consideration in the Court a quo's decision, thus:

"With the view thus taken the next in point of inquiry is the extent of E. Razon's liability in the premises. On this score, it is noteworthy that said defendant does not seriously dispute that the cargo sustained spillages and short-delivery while it was in its custody. In fact, by its own computation - and, on the basis of the invoice value which it correctly claims to be the reckoning point for its liability - it would fix its liability, if found to be so liable, at P19,930.15. This, significantly, is even much more, than the mere P16,381.97 that plaintiff is claiming from it. Evidently, therefore, the liability of defendant E. Razon, Inc. for shortages and spillages imputable to it should be pegged at the latter amount."[5]

At any rate, petitioner disclaims any liability due to the fact that private respondent did not file a "formal claim" within 30 days from the filing of entry on March 20, 1972[6] as the "formal" claim was filed on September 16, 1972. Petitioner disregarded the filing of a "provisional" claim on March 24, 1972 on the ground that it is not the claim demanded by the Revised Management Contract,[7] which E. Razon, Inc. as Arrastre Contractor, entered into with the Bureau of Customs on the 27th day of January, 1967.

Private respondent, on the other hand, claims that despite the change introduced in the matter of filing claims, i.e., "formal" claims have to be filed, the purpose is still the same -- to afford the arrastre operator the opportunity to check the validity of the claims.

We find the petition unmeritorious.

The only legal issue to be resolved by this Court is whether under the Revised Management Contract, the words "formal claim" exclude any "provisional claim".

The Revised Management Contract was the contract applicable as the shipment arrived on March 18, 1967.

Its paragraph XX states:

"x x x [B]ut said CONTRACTOR shall not be responsible for the condition of the contents of any package received nor for the weight, nor for any loss, injury or damage to the said cargo before or while the goods are being received or remain on the piers or wharves if the loss, injury or damage is caused by force majeure, or other causes beyond the CONTRACTOR's control, or capacity to prevent or remedy; PROVIDED, that a formal claim together with the necessary copies of the bill of lading, invoice, certified packing list, bank certificate showing the rate of exchange at the time of purchase or opening of letter of credit, and the computation arrived at covering the loss, damage, or non-delivery of such goods shall have been filed with the CONTRACTOR within thirty (30) days from the date of filing of entry; PROVIDED FURTHER, that if the loss, injury or damage is discovered within the last fifteen (15) days of said period of thirty (30) days, then the

formal claim shall be filed within fifteen (15) days from the date of discovery of the loss, injury or damage."^[8]
(Underscoring supplied for emphasis)

In the case at bar, the shipment in question arrived in Manila on March 18, 1972.^[9] The import entry was filed March 20, 1972.^[10] The deliveries of this shipment started March 29, 1972^[11] and ended on June 1, 1972.^[12] Since the delivery of the last package was made on June 1, 1972 -- 73 days after the filing of the import entry -- then a literal compliance under paragraph XX of the Revised Management Contract would mean that American Wire and Cable Co. (consignee insured by private respondent) had only until April 20, 1972 to file a "formal claim" for damaged goods. But said "formal claim" would cover only goods delivered as of April 20, 1972 -- the cost of goods delivered after said date (Exhs. 69-72, pp. 125-128, Folder of Exhibits) in a damaged condition or lost -- would be for the consignee's own account.

The Court must stress that petitioner Metro Port Service, Inc. is a public utility, discharging functions which are heavily invested with a public interest. This provision limiting the liability of said petitioner through the imposition of a requirement that a "formal claim" must be made within thirty (30) days from filing of entry must be carefully scrutinized and reasonably construed so as to protect the legitimate interest of the public which the public utility must serve.^[13] It is the Court's duty to tone down this harsh and unreasonable provision and give it a reasonable interpretation.^[14]

The filing by the consignee of this "provisional claim" on March 24, 1972^[15] -- 4 days after the filing of the entry -- is substantial compliance with the demand for a "formal claim" because as of that date the arrastre operator was given the reasonable opportunity to check the validity of the claim while the facts were still fresh in the minds of the persons who took part in the transaction and while the pertinent documents were still available.^[16] It did not matter that the provisional claim was for the whole amount of the invoice as a provisional claim -- without the value of the goods stated therein -- is sufficient as long as the name of the carrying vessel, its date of arrival and the corresponding bill of lading are attached.^[17] Consignee's "provisional claim" -- aside from the entire value of the invoice -- had all three other requirements.^[18]

WHEREFORE, the petition is hereby DISMISSED. The questioned Decision and Resolution of the appellate court are affirmed in toto. Costs against the petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Melo, J., no part.

[1] Exhs. "2, 2-A to 2-F-Razon".

[2] Exh. "H".

[3] Exhs. "J" to "Q".

[4] Page 54, Record on Appeal, p. 46, Rollo.

[5] Pp. 67-68, Record on Appeal; p. 46, Rollo.

[6] Page 30, Brief for Appellant E. Razon in the Court of Appeals, which Brief is found on p. 45, Rollo.

[7] Exhibit "75-Razon", p. 139, Folder of Exhibits.

[8] Pages 13 and 14, Exh. "75-Razon", Folder of Exhibits.

[9] Exh. "T", p. 24, Folder of Exhibits.

[10] Page 30, Brief for Appellant E. Razon, p. 45, Rollo.

[11] Exhibit "3-Razon", p. 59, Folder of Exhibits.

[12] Exh. "72-Razon", p. 128, Rolder of Exhibits.

[13] New Zealand Insurance Company Ltd. vs. Navarro, 178 SCRA 282, 298.

[14] Communication Insurance Co., Inc. vs. Manila Port Service, 39 SCRA 490, 493.

[15] Exhibit R. pp. 21-22, Folder of Exhibits.

[16] Esso Standard Eastern, Inc. vs. Manila Railroad Co., 93 SCRA 305, 309.

[17] Ibid., p. 310.

[18] Exh. "R", p. 21, Folder of Exhibits.

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