

LORENZO SHIPPING CORPORATION, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND FILIPINAS PORT SERVICES, INC., RESPONDENTS.

G.R. No. 79644. May 11, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for review on certiorari of the decision[*] of the Court of Appeals dated 19 August 1987 in CA-G.R. CV No. 07538 entitled "Filipinas Port Services, Inc., plaintiff-appellee vs. Lorenzo Shipping Corporation, defendant-appellant", which affirmed the decision[**] of the Regional Trial Court of Davao City, Branch IX, in Civil Case No. 14678 ordering the herein petitioner to pay private respondent the sum of P375,263.05 as stevedoring charges and arrastre fees, with legal rate of interest from the date of last demand on 16 July 1981, until fully paid, 25% of such principal sum of P375,263.05 as and for attorney's fees, and P5,000.00 as litigation expenses, plus costs.

Petitioner Lorenzo Shipping Corporation is a domestic corporation engaged in domestic shipping, carrying passengers and cargoes from port to port. When loading or unloading cargo at the Sta. Ana pier and Sasa wharf in the Port of Davao City, petitioner is compelled by the Philippine Ports Authority (PPA) to avail itself exclusively of the arrastre and stevedoring services of respondent Filipinas Port Services, Inc., subject to the payment of fees provided by PPA rules.[1]

Respondent Filipinas Port Services, Inc., (Filport, for short) is a domestic corporation engaged in stevedoring and arrastre services and is the exclusive cargo handling operator-contractor for all inter-island vessels calling at the port of Davao City, including those owned and operated by petitioner[2].

Sometime in October 1981, respondent Filport filed a complaint for sum of money against herein petitioner, alleging that as of 31 May 1981, petitioner corporation's outstanding account for stevedoring, handling and other services rendered to it by respondent amounted to P375,263.05, itemized as follows:

Stevedoring bills P346,725.21

Contractor's tax 101.25 P346,826.46

Handling bills 1,253.49

Contractor's tax 27.40 1,280.89

Standby time fees 20,886.40

Forklift rentals 1,330.00

Shifting cargoes 4,939.30

Total . . . P375,263.05

and that, despite repeated demands, petitioner corporation failed and refused to pay the account, thus prompting Filport to file the case, and praying that judgment be rendered ordering petitioner corporation to pay:

- the amount of P375,263.05 with interest at 15% per annum from July 16, 1981 when the last written demand was made against defendant corporation until the account is fully paid;
- the further sum equivalent to 25% of the principal amount of P375,263.05 as reimbursement for attorney's fees;
- and granting such other reliefs as are just and equitable under the premises.

On 22 January 1985, the court a quo rendered judgment adverse to the petitioner.[3] On appeal to the Court of Appeals, the assailed decision was affirmed in toto.[4] Hence, this petition for review.

The present petition questions only the stevedoring charge of P232,632.00 for ten-footer containers. The balance of P142,631.05 representing arrastre and other charges is admitted by petitioner to be due from it to respondent Filport.

Issues raised are:

One. Whether or not the pertinent rules and regulations of the PPA authorized respondent stevedoring company to apply the handling rate for 20-footer containers to petitioner's 10-footer containers.

Two. Whether or not respondent company is entitled to the award of attorney's fees of 25% of the principal claim plus litigation expenses of P5,000.00.[5]

Contrary to the rulings of the court a quo and the Court of Appeals, petitioner takes the stand that PPA Administrative Order 08-79 does not apply to 10-footer containers.[6] The pertinent portion of said order reads:

"PPA ADMINISTRATIVE ORDER
No. 08-79

TO: Port Managers/officers-in-Charge PMU Finance Officers Shipping Companies/Agents
Arrastre-Stevedoring Contractors Owners/Shippers/ Consignees of Goods and Other Port Users Concerned in
all Ports

SUBJECT: Prescribing Arrastre and Stevedoring Rates for Containers Handlings in the Domestic Operations
at the Outports

In line with the provisions of Section 20, Presidential Decree No. 857, the Revised Charter of the Philippine Ports Authority dated December 23, 1975, which authorizes the fixing of rates, charges or fees for articles/goods being handled in ports where no rates are yet established, and in relation to CAO 4-76 of the Bureau of Customs dated October 20, 1975 covering arrastre charges on containers/containerized cargo handled in North Harbor, Manila, and considering the upsurge of operating expenses in cargo handling, and the need to rationalize and establish rates on container handlings in order to accelerate growth of our container trade, the following stevedoring and arrastre rates are hereby prescribed for domestic operations in all ports including North Harbor, Manila:

A. STEVEDORING RATE

Per ISO container loaded or empty on self-sustaining vessel.... P40.00

On non self-sustaining vessel, if quay/dock crane or any lifting equipment is supplied and used by operator/contractor, the use of same is chargeable against shipping companies/agents.

Petitioner argues that the term "per ISO container" embodied in said PPA Administrative Order 08-79 should be understood in the light of an earlier PPA Administrative Order No. 06-78,[7] Section 1, Article I, of which provides:

PPA ADMINISTRATIVE ORDER NO. 6 Series of 1978

SUBJECT: RULES AND REGULATIONS GOVERNING CONTAINER OPERATIONS AT THE NORTH HARBOR, PORT OF MANILA

TO: ALL NORTH HARBOR PORT USERS AND OTHERS CONCERNED

Pursuant to Section 2(a), 6(a), (ii), 26, 27, 39 and 43 of Presidential Decree No. 857, otherwise known as the Revised Charter of the Philippine Ports Authority, in relation to Section 551 of the Revised Administrative Code of the Philippines, and in order to achieve efficiency in the management and supervision of container/containerized cargo-handling operations and to regulate, monitor and control container movements within the Port Zone, the following rules and regulations are hereby prescribed for the proper guidance of all concerned.

ARTICLE I - PRELIMINARY PROVISIONS

Section 1. Definition of Terms. - For purposes of these rules and regulations, the terms used herein shall be interpreted to mean as follows:

a)

Container - Any structure designed to contain, carry and keep articles, materials and products together inside a hold in the form of boxes, tanks, and the like, for singular or unit handling and transport, generally having an internal volume or capacity of not less than one (1) cubic meter. Containers are further defined according to their uses as dry cargo, refrigerated, liquid bulk, platform, open top, solid bulk, ventilated, etc.

b) Containerized/Container cargo - Cargoes packed inside a container for easy handling or transporting of the same as a unit.

c)

Marshalling Yard - A designated open storage area within the container terminal where containers are stocked systematically in preparation for loading aboard the container ship.

d) Stuffing - the loading operations of cargoes inside the containers.

e) Stripping - The unloading operations of cargoes outside the containers.

f) Class "A" Containers - 20, 35, 40 footer - containers as per International Shipping Organization (ISO)

g) Class "B" Containers - containers owned by the shipping lines, the measurements/sizes of which do not fall under the ISO standard.

Petitioner contends that, on the basis of the foregoing PPA administrative orders, 10-footer containers or less than 20-footer containers are not included under Class "A" and, hence, no stevedoring rate can be prescribed on them[8].

Petitioner's arguments have been thoroughly and exhaustively examined by the court a quo and the Court of Appeals. In ruling for the respondent Filport, the court a quo aptly said:

"x x x The problem and confusion accordingly cropped-up when defendant interpreted the provisions of said Administrative order in relation to the earlier issued Administrative Order No. 06-78 dated May 24, 1978, which should not allegedly be the case since the latter applies specifically only to container operations at the North Harbor, Port of Manila and certainly, as the Court observed, the rates provided in each Administrative Orders (Exhs. "1" and "3" or "C") are not uniform. The same problem or confusion would not have happened also if defendant only considered PPA Memorandum Circular No. 06-81 dated April 22, 1981 which clarified the term "ISO Container", its designation, height, width, length and weight having been stated supra. In billing defendant for stevedoring and arrastre services indicated in Exhs. "0" to "0-42" which support the computation appearing in defendant's Statement of Account (Exh. "A"), plaintiff relied on PPA Memorandum Circular No. 004, PMU Davao dated May 21, 1979 (Exh. "B"), which circularized that all rates in container handling for domestic operation in all ports shall be based on PPA Administrative Order No. 08-79 dated March 12, 1979. Under said administrative order, the rates for stevedoring and arrastre services were general for all ISO containers. It did not classify or provide the dimensions of containers for said rates to be made applicable. On the other hand, if the rates were subsequently increased, they were based on subsequently issued administrative orders, thus, it cannot be said what the rates charged by plaintiff for its ten-footer containers of "mini vans" were illegal and unauthorized x x x".

x x x

"After a careful and painstaking evaluation of all the issues and arguments raised by both parties, taken together with their respective testimonial and documentary evidences, it is the Court's considered view and opinion, as it so holds, that plaintiff's version is more credible and duly supported by evidence. Just to recapitulate, plaintiff's rates for stevedoring and arrastre services which were imposed at the time when PPA has not yet come up with rates specifically applicable for ten-footers and below were not merely imposed by plaintiff on its own free will but were based on PPA administrative Order No. 08-79 of March 12, 1979, which prescribed the rates in container handling for domestic operations in all ports, including North Harbor, Port of Manila, and the Port of Davao as well. If the rates were later on increased, again, they were based on specific PPA administrative Orders, leaving however, the rates specifically applicable to ten-footer containers and below unresolved, until on October 15, 1981, when PPA issued Administrative Order No. 11A-81, which finally prescribed the rates applicable to ten-footer containers and below but at the same time however, provided for a non-retroactivity clause. So that, even assuming arguendo that plaintiff erred in its imposition of the rates for defendant's 10-footer containers which the latter, just the same, failed to prove by competent evidence like proofs to the effect that other shipping corporation serviced by plaintiff are also questioning the rates which the plaintiff imposed for ten-footer containers, the defendant has no other alternative but pay or settle its outstanding account with the plaintiff, the said administrative order being clear and decisive to this effect. Defendant's claim of alleged invalidity of PPA Memorandum Circular No. 06-81 dated April 22, 1981 (Exh. "M"), which could have then long settled the problem existing between the parties since it once and for all clarified the term "ISO Containers", cannot be given any merit since it constitutes a collateral attack on the validity of said memorandum circular which cannot be allowed in the case at bar. On the contrary, since it has

not been revoked, modified, recalled or declared as null and void by the PPA Board itself, the same stands in full force and effect and the rates imposed on the basis of said clarification should, by legal implication, be also considered legal, valid and authorized. From the totality of plaintiff's evidences, the Court sees no cogent or compelling reasons to disturb the computation made by plaintiff on defendant's outstanding account for stevedoring and arrastre services, which as of May 31, 1981, stood at P375,263.05 (Exh. "A"). The Court is in full accord with plaintiff's view and position and on the basis of all the foregoing considerations finds, and so holds, that it has fully established its cause of action against defendant by preponderance of evidence.[9]

Likewise, the Court of Appeals in affirming the decision of the court a quo, made the following proper observations:

"x x x PPA, Administrative Order No. 06-78 (Exh. 1) as its subject indicates applies only to container operations at the North Harbor, Port of Manila. Upon the other hand, PPA Administrative order No. 08-79 (Exh. C) prescribes the arrastre and stevedoring rates for container handling in the domestic operations in all ports. It does not make any distinction on the size of the container nor does it make any reference to any previous administrative order for its understanding. For not making any distinction to size, some quarters may find fault on its wisdom but that is a matter addressed to the Philippine Port Authority. PPA Administrative Order No. 08-79 is however clear by itself and hence ought to be enforced even by judicial authorities. To be sure, the interpretation suggested by defendant-appellant will, by its own admission, result in a legal hiatus, a situation abhorred by rules of legal hermeneutics. Since the stevedoring rate of plaintiff-appellee is sanctioned by PPA Administrative Order No. 08-79, it follows that the trial court was correct when it refused to apply the general principles of fairness, justice and equity in fixing the stevedoring rate due and owing to the plaintiff-appellee[10]".

The other contentions in the instant petition have been carefully discussed and disposed of by the decisions of the court a quo and the Court of Appeals. We find no reversible error in the findings of fact and conclusions of law of the trial and appellate courts. Accordingly, the assailed decision of respondent court should be sustained.

However, on the issue of attorney's fees, we are constrained to reduce the award, for being grossly excessive. An award of 10% of the amount of P375,263.05 is reasonable.

WHEREFORE, the petition is DENIED. As modified, the decision under review is hereby AFFIRMED. With costs against the petitioner.

SO ORDERED.

Yap, C.J., (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[*] Penned by Justice Reynato S. Puno, Justices Santiago M. Kapunan and Alfredo M. Marigomen concurring.

[**] Written by Judge Bernardo V. Saldares.

[1] Memorandum of Petitioner, p. 1

[2] Memorandum for Respondents, p. 2

[3] Annex I, Rollo p. 94

[4] Annex E, Rollo p. 61

[5] Memorandum for petitioner, p. 6

[6] Memorandum for petitioner, p. 6-12

[7] Ibid

[8] Ibid.

[9] Decision of the Regional Trial Court of Davao City Branch IX, pp. 7; 10-11.

[10] Decision of Court of Appeals, pp. 10-11

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