

## SECOND DIVISION

[ G.R. No. 203865, March 13, 2019 ]

**UNITRANS INTERNATIONAL FORWARDERS, INC., PETITIONER,  
V. INSURANCE COMPANY OF NORTH AMERICA, UNKNOWN  
CHARTERER OF THE VESSEL M/S "DORIS WULLF", AND TMS  
SHIP AGENCIES, RESPONDENTS.**

### DECISION

**CAGUIOA, J:**

Before the Court is a Petition for Review on *Certiorari*<sup>[1]</sup> (Petition) under Rule 45 of the Rules of Court filed by petitioner Unitrans International Forwarders, Inc. (Unitrans) against respondents Insurance Company of North America (ICNA), the unknown charterer of the vessel M/S "Doris Wullf" (unknown charterer of M/S Doris Wullf), and TMS Ship Agencies (TSA).

The instant Petition assails the Decision<sup>[2]</sup> dated October 27, 2011 (assailed Decision) and Resolution<sup>[3]</sup> dated October 12, 2012 (assailed Resolution) rendered by the Court of Appeals<sup>[4]</sup> (CA) in CA-G.R. CV No. 95367.

#### **The Facts and Antecedent Proceedings**

As culled from the records of the case, the essential facts and antecedent proceedings of the instant case are as follows:

On July 28, 2003, ICNA filed an Amended Complaint<sup>[5]</sup> for collection of sum of money (Complaint) arising from marine insurance coverage on two (2) musical instruments imported from Melbourne Australia on April 22, 2002.

The Complaint, which was filed before the Regional Trial Court of Makati City, Branch 139 (RTC), was instituted against South East Asia Container Line (SEACOL) and the unknown owner/charterer of the vessel M/S Buxcrown, both doing business in the Philippines through its local ship agent Unitrans, and against the unknown charterer of M/S Doris Wullf, doing business in the Philippines through its local ship agent TSA, for the collection of the principal amount of Twenty-Two Thousand, Six Hundred Fifty-Seven Dollars and Eighty Three Cents (US\$22,657.83) with interests thereon and attorney's fees. The case was docketed as Civil Case No. 03-505.

ICNA alleged in its Complaint that:

1. On or about 22 April 2002, in Melbourne, Australia, SEACOL [, a foreign company,] solicited and received shipment of pieces of STC musical instruments from the shipper Dominant Musical Instrument for transportation to and delivery at the port of Manila, complete and in good condition, as evidenced by Bill of Lading No. 502645. SEACOL then loaded the insured shipment on board M/S Buxcrown for transportation from Melbourne Australia

to Singapore. In Singapore, the shipment was transferred from M/S Buxcrown to M/S Doris Wulff for final transportation to the port of Manila.

2. The aforesaid shipment was insured with ICNA against all risk under its Policy No. MOPA-06310 in favor of the consignee, San Miguel Foundation for the Performing Arts (San Miguel).
3. On 12 May 2002, M/S Doris Wulff arrived and docked at the Manila International Container Port, North Harbor, Manila. The container van was discharged from the vessel [, was received by Unitrans,] and upon stripping the contents thereof, it was found that two of the cartons containing the musical instruments were in bad order condition, per Turn Over Survey Report<sup>[6]</sup> dated 14 May 2002. Unitrans then delivered the subject shipment to the consignee. After further inspection, it was found out that two units of musical instruments were damaged and could no longer be used for their intended purpose, hence were declared a total loss;
4. Obviously, the damages sustained by the insured cargo were caused by the fault and negligence of the [therein] defendants;
5. Formal claims were filed against [the therein] defendants but they refused and failed to pay the same without valid and legal grounds;
6. As cargo-insurer of the subject shipment and by virtue of the insurance claim filed by the consignee, ICNA paid the sum of \$22,657.83.
7. By reason of the said payment, ICNA was subrogated to consignee's rights of recovery against [the] defendants [therein];
8. Due to the unjustified refusal of the defendants [therein] to pay its claims, ICNA was constrained to engage the services of counsel.<sup>[7]</sup>

In its Answer with Counterclaim<sup>[8]</sup> dated July 8, 2004, Unitrans denied being a ship agent of SEACOL and the vessel M/S Buxcrown's unknown owner or charter. According to Unitrans, BTI Logistics PTY LTD. (BTI Logistics), a foreign freight forwarder, engaged its services as delivery or receiving agent in connection to the subject shipment. As such agent, Unitrans' obligations were limited to receiving and handling the bill of lading sent to it by BTI Logistics, prepare an inward cargo manifest, notify the party indicated of the arrival of the subject shipment, and release the bill of lading upon order of the consignee or its representative so that the subject shipment could be withdrawn from the pier/customs. It further alleged that the consignee, San Miguel, also engaged its services as customs broker for the subject shipment. As such, Unitrans' obligation was limited to paying on behalf of San Miguel the necessary duties and kindred fees, file with the Bureau of Customs (BOC) the Import Entry Internal Revenue Declaration together with other pertinent documents, **as well as to pick up the shipment and then transport and deliver the said shipment to the consignee's premises in good condition.**

On its part, TSA and the unknown charterer of M/S Doris Wulff alleged in their Amended Answer with Compulsory Counterclaim<sup>[9]</sup> dated July 11, 2004 that while TSA is indeed the commercial agent of M/S Doris Wulff, both parties are not parties whatsoever to the bill of lading and have no connection in any way with SEACOL,

the unknown owner and/or charterer of the vessel M/S Buxcrown and Unitrans. It was further alleged that the subject shipment was discharged from the vessel M/S Doris Wullf complete and in the same condition as when it was loaded therein, which is a fact stated in the Turn-Over Survey Report.

### **The Ruling of the RTC**

In its Decision<sup>[10]</sup> dated March 29, 2010, the RTC granted the Complaint and held Unitrans liable to ICNA for the sum of US\$22,657.83 or its equivalent in Philippine Peso, *i.e.*, One Million, Forty-Two Thousand, Two Hundred Sixty Pesos and Eighteen Centavos (P1,042,260.18) with interest. The dispositive portion of the RTC's Decision reads:

**WHEREFORE**, in view of the foregoing considerations, the Court hereby GRANTS in favor of the plaintiff against defendant Unitrans, hence Unitrans is hereby ordered to pay plaintiff the sum of P1,042,260.18 (US\$22,657.83XP46.00), with interest at six percent (6%) per annum from date hereof until finality, and twelve percent (12%) per annum from finality until fully paid plus cost of suit.

The complaint against TMS is hereby DISMISSED for insufficiency of evidence including the counterclaim of TMS.

**SO ORDERED.**<sup>[11]</sup>

The RTC found that the witness of Unitrans itself admitted in open court that "Unitrans is a non-vessel operating common carrier (NVOCC). Moreover, this witness admitted that Unitrans is the delivery and collecting agent of BTI, who is duty bound to [deliver] the subject shipment in good order and condition to San Miguel. Thus, Unitrans is a common carrier. Under Article 1742 of the New Civil Code, it states: 'Even if the loss, destruction, or deterioration of the goods should be caused by the character of the goods, or [the] faulty nature of the packing or of the containers, the common carrier must exercise due diligence to forestall or lessen the loss.' It appears that Unitrans, as common carrier, did not observe this requirement of the law."<sup>[12]</sup>

Feeling aggrieved, Unitrans appealed the RTC's Decision before the CA.<sup>[13]</sup>

### **The Ruling of the CA**

In its assailed Decision, the CA denied Unitrans' appeal for lack of merit. The dispositive portion of the assailed Decision reads:

**WHEREFORE**, the appeal is **DENIED** and the Decision appealed from is **AFFIRMED**.

**IT IS SO ORDERED.**<sup>[14]</sup>

In sum, the CA denied Unitrans' argument that the failure of the Court to issue summons and acquire jurisdiction with respect to SEACOL and the unknown charterer/owner of M/S Buxcrown, which are based abroad, is tantamount to a failure to include indispensable parties because Unitrans failed to show that the aforesaid entities are indispensable parties. As observed by the CA, "Unitrans merely

concluded that the said parties were indispensable because they were repeatedly impleaded by ICNA as defendants in its original complaint x x x."<sup>[15]</sup>

Further, "[t]he contention of Unitrans, that the trial court x x x had no factual and legal basis in holding it liable as a common carrier and agent of BTI Logistics is sorely bereft of merit."<sup>[16]</sup>

Unitrans filed its Motion for Clarification and Reconsideration<sup>[17]</sup> of the assailed Decision on November 17, 2011, which was denied by the CA in its assailed Resolution.

Hence, the instant Petition.

TSA and the unknown charterer of M/S Doris Wulff filed their Comment (To Petitioner's Petition for Review on Certiorari)<sup>[18]</sup> on April 23, 2013. ICNA filed its Comment<sup>[19]</sup> on April 30, 2013. Unitrans filed its Consolidated Reply Brief<sup>[20]</sup> on February 12, 2014.

On October 7, 2016, TSA and the unknown charterer of M/S Doris Wulff filed their Memorandum.<sup>[21]</sup> ICNA filed its Memorandum<sup>[22]</sup> on October 18, 2016. Unitrans filed its Memorandum<sup>[23]</sup> on October 27, 2016.

### **Issue**

The "central question to be resolved by the Court is whether the CA was correct in rendering the assailed Decision, which affirmed the RTC's Decision holding Unitrans liable to ICNA.

### **The Court's Ruling**

The instant Petition is centered on how "the RTC Decision only singled out herein petitioner [Unitrans] x x x [and] is completely silent on how the rest of the defendants came to be absolved from any liability and/or exonerated from being held solidarity liable with herein petitioner, notwithstanding a prayer therefor in the Complaint."<sup>[24]</sup>

In the main, Unitrans posits the view that the RTC's finding of liability on the part of Unitrans, as affirmed by the CA, supposedly amounts to a misapprehension of the evidence and the facts.<sup>[25]</sup>

Unitrans even goes further by arguing that the RTC Decision is non-compliant with Section 14, Article VIII of the 1987 Constitution, which states that "[n]o decision shall be rendered by any court without expressing therein clearly and distinctively the facts and the law on which it is based."<sup>[26]</sup> Unitrans opines that the RTC's Decision transgressed the aforementioned constitutional provision because it was supposedly "totally left in the dark on how and why its co-defendants, except for [TSA], had been absolved."<sup>[27]</sup>

The instant Petition is bereft of merit.

First and foremost, Unitrans' issue on how the RTC and CA allegedly misapprehended the facts of the instant case and failed to fully appreciate evidence