

SECOND DIVISION

[G.R. No. 201822, August 12, 2015]

MARINA PORT SERVICES, INC. *, PETITIONER, VS. AMERICAN HOME ASSURANCE CORPORATION, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

This Petition for Review on Certiorari^[1] filed pursuant to Rule 45 of the Rules of Court assails the December 29, 2011 Decision^[2] and May 8, 2012 Resolution^[3] of the Court of Appeals (CA) in CA GR. CV No. 88321, which granted the appeal filed therein by respondent American Home Assurance Corporation (AHAC) and reversed and set aside the October 17, 2006 Decision^[4] of the Regional Trial Court (RTC), Pasig City, Branch 271 dismissing AHAC's Complaint^[5] for Damages against petitioner Marina Port Services, Inc. (MPSI).

Factual Antecedents

On September 21, 1989, Countercorp Trading PTE., Ltd. shipped from Singapore to the Philippines 10 container vans of soft wheat flour with seals intact on board the vessel M/V Uni Fortune. The shipment was insured against all risks by AHAC and consigned to MSC Distributor (MSC).

Upon arrival at the Manila South Harbor on September 25, 1989, the shipment was discharged in good and complete order condition and with safety seals in place to the custody of the arrastre operator, MPSI. After unloading and prior to hauling, agents of the Bureau of Customs officially broke the seals, opened the container vans, and examined the shipment for tax evaluation in the presence of MSC's broker and checker. Thereafter, the customs inspector closed the container vans and refastened them with safety wire seals while MSC's broker padlocked the same. MPSI then placed the said container vans in a back-to-back arrangement at the delivery area of the harbor's container yard where they were watched over by the security guards of MPSI and of the Philippine Ports Authority.

On October 10, 1989, MSC's representative, AD's Customs Services (ACS), took out five container vans for delivery to MSC. At the compound's exit, MPSI issued to ACS the corresponding gate passes for the vans indicating its turnover of the subject shipment to MSC. However, upon receipt of the container vans at its warehouse, MSC discovered substantial shortages in the number of bags of flour delivered. Hence, it filed a formal claim for loss with MPSI.

From October 12 to 14, 1989 and pursuant to the gate passes issued by MPSI, ACS took out the remaining five container vans from the container yard and delivered them to MSC. Upon receipt, MSC once more discovered substantial shortages. Thus,

MSC filed another claim with MPSI.

Per MSC, the total number of the missing bags of flour was 1,650 with a value of £257,083.00.

MPSI denied both claims of MSC. As a result, MSC sought insurance indemnity for the lost cargoes from AHAC. AHAC paid MSC the value of the missing bags of flour after finding the latter's claim in order. In turn, MSC issued a subrogation receipt in favor of AHAC.

Thereafter, AHAC filed a Complaint^[6] for damages against MPSI before the RTC.

Ruling of the Regional Trial Court

AHAC averred in its Complaint that the partial loss of the bags of flour was due to the fault or negligence of MPSI since the loss happened while the shipment was still in MPSI's custody.

MPSI, on the other hand, disclaimed any liability. It essentially maintained in its Answer^[7] that the bags of flour were inside sealed container vans when it received the same; that it handled the subject shipment with the diligence required of it; and, that the container vans were turned over by it to MSC in the same condition that they were in at the time of their discharge from the vessel. MPSI likewise countered that the failure of MSC to request for a bad order survey belied the latter's claim for loss.

Trial then ensued.

On October 17, 2006, the RTC rendered a Decision^[8] dismissing AHAC's Complaint. It held that while there was indeed a shortage of 1,650 sacks of soft wheat flour, AHAC's evidence failed to clearly show that the loss happened while the subject shipment was still under MPSI's responsibility. Hence, the dispositive portion of the RTC Decision:

WHEREFORE, premises considered, the complaint is hereby DISMISSED.

SO ORDERED.^[9]

Ruling of the Court of Appeals

Aggrieved, AHAC appealed to the CA.

In its Decision^[10] dated December 29, 2011, the CA stressed that in a claim for loss filed by a consignee, the burden of proof to show due compliance with the obligation to deliver the goods to the appropriate party devolves upon the arrastre operator. In consonance with this, a presumption of fault or negligence for the loss of the goods arises against the arrastre operator pursuant to Articles 1265^[11] and 1981^[12] of the Civil Code. In this case, the CA found that MPSI failed to discharge such burden and to rebut the aforementioned presumption. Thus, it was held liable to AHAC for

the value of the missing bags of flour, viz.:

We conclude that x x x MPSI was negligent in the handling and safekeeping of the subject shipment. It did not create and implement a more defined, concrete and effective measure to detect, curb and prevent the loss or pilferage of cargoes in its custody. This is manifested by the fact that [MPSI] never took any action to address such complaint even after it received the formal claim of loss in the first five (5) vans. As a consequence, more bags of flour were eventually lost or pilfered in the remaining container vans that were still in [MPSI's] custody at that time. Case law tells us that negligence is that conduct which creates undue risk of harm to another, the failure to observe that degree of care, precaution and vigilance which the circumstance[s] justly demand, whereby that other person suffers injury. Clearly, [MPSI] breached its arrastre obligations to the consignee for it failed to deliver said bags in good and complete condition.

In view of MPSI's failure to exercise that degree of diligence, precaution and care the law [requires] of arrastre operators in the performance of their duties to the consignee, [MPSI] is legally bound to reimburse [AHAC] for the value of the missing bags of flour that it paid to MSC pursuant to the insurance policy.^[13]

In view of the same, the said court disposed of the appeal in this wise:

WHEREFORE, premises considered, the appeal is GRANTED. The Decision of the Regional Trial Court of Pasig City, Branch 271 dated 17 October 2006 is REVERSED and SET ASIDE. Appellee Marina Port Services, Inc. is ORDERED to pay appellant, American Home Assurance Corporation, the sum of Two Hundred Fifty Seven Thousand and Eighty Three Pesos (PhP257,083.00) with interest thereon at Six percent (6%) [per annum] from the filing of this complaint on 24 September 1990 until the decision becomes final and executory, and thereafter, at the rate of twelve (12) percent [per annum] until fully paid, and additionally, to pay the x x x sum of Fifty Thousand Pesos (PhP50,000.00) as attorney's fees.

SO ORDERED.^[14]

MPSI moved for reconsideration but the CA denied the same in its Resolution^[15] dated May 8, 2012.

Hence, the present recourse.

Issue

The core issue to be resolved in this case is whether MPSI is liable for the loss of the bags of flour.

Our Ruling

There is merit in the Petition.

Albeit involving factual questions, the Court shall proceed to resolve this case since it falls under several exceptions to the rule that only questions of law are proper in a petition for review on certiorari.

At the outset, it is evident that the resolution of the instant case requires the scrutiny of factual issues which are, however, outside the scope of the present petition filed pursuant to Rule 45 of the Rules of Court. However, the Court held in *Asian Terminals, Inc. v. Philam Insurance Co., Inc.*^[16] that:

But while it is not our duty to review, examine and evaluate or weigh all over again the probative value of the evidence presented, the Court may nonetheless resolve questions of fact when the case falls under any of the following exceptions:

(1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.^[17]

The Court finds that the instant case falls under the aforementioned second, fourth, fifth, and seventh exceptions. Hence, it shall proceed to delve into factual matters essential to the proper determination of the merits of this case.

Several well-entrenched legal principles govern the relationship of an arrastre operator and a consignee.

The relationship between an arrastre operator and a consignee is similar to that between a warehouseman and a depositor, or to that between a common carrier and the consignee and/or the owner of the shipped goods.^[18] Thus, an arrastre operator should adhere to the same degree of diligence as that legally expected of a

warehouseman or a common carrier^[19] as set forth in Section 3[b] of the Warehouse Receipts [Act]^[20] and Article 1733 of the Civil Code.^[21] As custodian of the shipment discharged from the vessel, the arrastre operator must take good care of the same and turn it over to the party entitled to its possession.^[22]

In case of claim for loss filed by a consignee or the insurer as subrogee,^[23] it is the arrastre operator that carries the burden of proving compliance with the obligation to deliver the goods to the appropriate party.^[24] It must show that the losses were not due to its negligence or that of its employees.^[25] It must establish that it observed the required diligence in handling the shipment.^[26] Otherwise, it shall be presumed that the loss was due to its fault.^[27] In the same manner, an arrastre operator shall be liable for damages if the seal and lock of the goods deposited and delivered to it as closed and sealed, be broken through its fault.^[28] Such fault on the part of the arrastre operator is likewise presumed unless there is proof to the contrary.^[29]

MPSI was able to prove delivery of the shipment to MSC in good and complete condition and with locks and seals intact.

It is significant to note that MPSI, in order to prove that it properly delivered the subject shipment consigned to MSC, presented 10 gate passes marked as Exhibits 4 to 13.^[30] Each of these gate passes bore the duly identified signature^[31] of MSC's representative which serves, among others, as an acknowledgement that:

Issuance of [the] Gate Pass constitutes delivery to and receipt by consignee of the goods as described above in good order and condition, unless an accompanying B.O. certificate duly issued and noted on the face of [the] Gate Pass appears.^[32]

As held in *International Container Terminal Services, Inc. v. Prudential Guarantee & Assurance Co., Inc.*,^[33] the signature of the consignee's representative on the gate pass is evidence of receipt of the shipment in good order and condition.^[34]

Also, that MPSI delivered the subject shipment to MSC's representative in good and complete condition and with lock and seals intact is established by the testimonies of MPSI's employees who were directly involved in the processing of the subject shipment. Mr. Ponciano De Leon testified that as MPSI's delivery checker, he personally examined the subject container vans and issued the corresponding gate passes that were, in turn, countersigned by the consignee's representative. MPSI's other witness, Chief Claims Officer Sergio Icasiano (Icasiano), testified that the broker, as the consignee's representative, neither registered any complaints nor requested for an inspection, to wit:

RE-DIRECT EXAMINATION:
Atty. Laurente
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