

THIRD DIVISION

[G.R. No. 135377, October 07, 2003]

**DSR-SENATOR LINES AND C.F. SHARP AND COMPANY, INC.,
PETITIONERS, VS. FEDERAL PHOENIX ASSURANCE CO., INC.,
RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on *certiorari*^[1] assailing the Decision^[2] dated June 5, 1998 of the Court of Appeals in CA-G.R. CV No. 50833 which affirmed the Decision of the Regional Trial Court (RTC), Manila City, Branch 16, in Civil Case No. 94-69699, "*Federal Phoenix Assurance Company, Inc. vs. DSR-Senator Lines and C.F. Sharp & Co., Inc.*," for damages arising from the loss of cargo while in transit.

Berde Plants, Inc. (Berde Plants) delivered 632 units of artificial trees to C.F. Sharp and Company, Inc. (C.F. Sharp), the General Ship Agent of DSR-Senator Lines, a foreign shipping corporation, for transportation and delivery to the consignee, Al-Mohr International Group, in Riyadh, Saudi Arabia. C.F. Sharp issued International Bill of Lading No. SENU MNL-26548^[3] for the cargo with an invoice value of \$34,579.60. Under the Bill of Lading, the port of discharge for the cargo was at the Khor Fakkan port and the port of delivery was Riyadh, Saudi Arabia, *via* Port Dammam. The cargo was loaded in M/S "Arabian Senator."

Federal Phoenix Assurance Company, Inc. (Federal Phoenix Assurance) insured the cargo against all risks in the amount of P941,429.61.^[4]

On June 7, 1993, M/S "Arabian Senator" left the Manila South Harbor for Saudi Arabia with the cargo on board. When the vessel arrived in Khor Fakkan Port, the cargo was reloaded on board DSR-Senator Lines' feeder vessel, M/V "Kapitan Sakharov," bound for Port Dammam, Saudi Arabia. However, while in transit, the vessel and all its cargo caught fire.

On July 5, 1993, DSR-Senator Lines informed Berde Plants that M/V "Kapitan Sakharov" with its cargo was gutted by fire and sank on or about July 4, 1993. On December 16, 1993, C.F. Sharp issued a certification to that effect.

Consequently, Federal Phoenix Assurance paid Berde Plants P941,429.61 corresponding to the amount of insurance for the cargo. In turn Berde Plants executed in its favor a "Subrogation Receipt"^[5] dated January 17, 1994.

On February 8, 1994, Federal Phoenix Assurance sent a letter to C.F. Sharp demanding payment of P941,429.61 on the basis of the Subrogation Receipt. C.F. Sharp denied any liability on the ground that such liability was extinguished when the vessel carrying the cargo was gutted by fire.

Thus, on March 11, 1994, Federal Phoenix Assurance filed with the RTC, Branch 16, Manila a complaint for damages against DSR-Senator Lines and C.F. Sharp, praying that the latter be ordered to pay actual damages of P941,429.61, compensatory damages of P100,000.00 and costs.

On August 22, 1995, the RTC rendered a Decision in favor of Federal Phoenix Assurance, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff and against the defendants who are hereby ordered jointly and severally to pay plaintiff:

- I. The amount of P941,439.61 (should be P941,429.61^[6]) with legal interest of 6% per annum from the date of the letter of demand of February 8, 1993 (EXH. L) and 12% per annum from the date the judgment becomes final and executory until its satisfaction (*Eastern Shipping Lines vs. Court of Appeals*, G.R. No. 97412, July 12, 1994);
- II. The amount of P15,000.00 by way of reasonable attorney's fees; and
- III. To pay costs.

"The counterclaim of defendants is DISMISSED.

"SO ORDERED."^[7]

On appeal, the Court of Appeals rendered a Decision dated June 5, 1998, affirming the RTC Decision, thus:

"In the present recourse, the appellant carrier was presumed to have acted negligently for the fire that gutted the feeder vessel and the consequent loss or destruction of the cargo. Hence, the appellant carrier is liable for appellee's claim under the New Civil Code of the Philippines.

"Contrary to C.F. Sharp and Co., Inc.'s pose, its liability as ship agent continued and remained until the cargo was delivered to the consignee. The status of the appellant as ship agent subsisted and its liability as a ship agent was co-terminous with and subsisted as long as the cargo was not delivered to the consignee under the terms of the Bill of Lading.

"IN LIGHT OF ALL THE FOREGOING, the appeal of the appellants is DISMISSED. The Decision appealed from is affirmed. With costs against the appellants.

"SO ORDERED."^[8]

On September 7, 1998, the Court of Appeals denied the motion for reconsideration of DSR-Senator Lines and C.F. Sharp, prompting them to file with this Court the instant petition.