

## SECOND DIVISION

[ G.R. No. 110853, July 31, 2000 ]

**AMERICAN PRESIDENT LINES, LTD., PETITIONER, VS. COURT OF APPEALS, JUDGE CLEMENTE SORIANO OF RTC, MANILA, BRANCH 3, AND FGU INSURANCE CORPORATION, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

For review on certiorari filed by American President Lines, Ltd. (APL), a foreign shipping company authorized to engage in business in the Philippines, is the decision of the Court of Appeals in CA-G.R. CV No. 24181, which affirmed the ruling of the Regional Trial Court finding petitioner liable for damages sustained by a particular cargo loaded on its vessel, *MV President Washington*.

The facts as found by the trial court as well as by respondent court are as follows:

"On July 30, 1987, defendant American President Lines' (APL) vessel 'President Washington' (CARRIER for short) received and loaded on board at Los Angeles, California, the subject shipment of one (1) unit of Submersible Jockey Pump, contained in (3) boxes, complete and in good order condition, covered by Commercial Invoice No. 602956 (Exh. B), and Packing List, (Exhs. C, C-1 to C-3). It was for transport to Manila in favor of Lindale Development Corporation, the consignee. For said shipment, defendant CARRIER, thru Forwarders Direct Container Lines, Inc., issued its clean Bill of Lading No. CHI-MNL-120, dated July 17, 1987 (Exh. A). The above-mentioned shipment was insured by the plaintiff [herein private respondent] against all risks for the sum of P481,842.24, Philippine Currency under Marine Policy No. MAR-00213, dated July 10, 1987 (Exh. D).

The defendant CARRIER transshipped the shipment in Hongkong on board the vessel MS 'Partas', which arrived at the Port of Manila, on September 6, 1987. On the same date, (September 6, 1987) the shipment was discharged from the vessel 'Partas', and turned over to the custody of Marina Port Services, Inc. (Arrastre for brevity), with one (1) box in bad order condition, showing signs of having been previously tampered; hence, covered by a Turn over Survey Cargoes No. A-08851 (Exh. E). The cargo remained in the custody of the defendant, ARRASTRE for ten (10) days until it was withdrawn on April 16, 1987 by the defendant broker which delivered the same to the consignee, aforementioned, at its warehouse, where the said shipment was examined and inventoried, and the one (1) box discharged from the CARRIER's vessel in bad order and condition, (Exh. E) was found short of one (1) piece waste cone and one (1) piece Main Relief valued, per invoice, at P28,248.58, Philippine Currency (Exhibit B). Lindale Development Corporation, the

consignee, filed the corresponding claim with the three (3) defendants (Exhibits J, K, and L). When the said defendants denied the claims, the said consignee sought payment instead from the plaintiff as insurer, thereof, under the Marine Insurance Coverage, (Exh. D), and plaintiff paid the consignee the sum of P28,248.58 (Exhibit N). In the process, the said plaintiff was subrogated to the consignee's rights to recover from the defendants the said amount. As such subrogee, plaintiff filed with the three (3) defendants claims for reimbursement, but the latter denied its claims stating that they are not responsible for the said loss sustained by the shipment."<sup>[1]</sup>

Private respondent filed a complaint for recovery of a sum of money against APL, Marina Port Services, Inc., and LCM Brokerage Co., Inc. The trial court found in favor of private respondent and ordered APL to pay private respondent the amount of P28,248.58 in actual damages, and twenty-five percent thereof as attorney's fees.

On appeal, respondent court affirmed said decision of the trial court. Respondent court noted that APL issued a through bill of lading for the shipment of the subject goods, under which APL undertook to carry the goods from the port of loading to the port of discharge. According to respondent court:

"The nature of a through Bill of Lading is that the carrier undertakes to be responsible for the carriage of goods by successive ocean carriers from the point of loading to the final destination; the first carrier is responsible for the whole carriage and claimant may call upon the first carrier for indemnification for any loss along the route whether or not the loss took place in the first carrier's custody.

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Therefore, even assuming that the loss/damage to the good took place while in the custody of MS "Partas", it is still appellant APL which is liable therefor to the consignee."<sup>[2]</sup>

Hence this petition, wherein petitioner raises the following issues for our consideration:

1. IN ISSUING A BILL OF LADING, DOES A FREIGHT FORWARDER ASSUME THE OBLIGATIONS AND LIABILITIES OF A COMMON CARRIER?
2. IS A COMMON CARRIER BOUND BY THE TERMS OF A HOUSE BILL OF LADING ISSUED BY A FREIGHT FORWARDER?
3. IN TRANSSHIPMENT OF CARGOES, WHO IS LIABLE FOR THE LOSS/DAMAGE TO THE CARGO OCCURRING AT ONE STAGE OF THE VOYAGE?<sup>[3]</sup>

Petitioner claims that the bill of lading in this case was issued not by APL through the freight forwarder as its agent, but solely by the freight forwarder. When it did so, according to petitioner, the freight forwarder assumed the obligations and liabilities of a common carrier. Petitioner denies any liability under the bill of lading issued by the freight forwarder because, allegedly, it did not participate in the preparation and issuance of the same.