

THIRD DIVISION

[G.R. No. 132607, May 05, 1999]

**CEBU SHIPYARD AND ENGINEERING WORKS, INC., PETITIONER,
VS. WILLIAM LINES, INC. AND PRUDENTIAL GUARANTEE AND
ASSURANCE COMPANY, INC., RESPONDENTS.**

D E C I S I O N

PURISIMA, J.:

At bar is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court seeking a reversal of the decision of the Court of Appeals^[1] which affirmed the decision of the trial court of origin finding the petitioner herein, Cebu Shipyard and Engineering Works, Inc. (CSEW) negligent and liable for damages to the private respondent, William Lines, Inc., and to the insurer, Prudential Guarantee Assurance Company, Inc.

The antecedent facts that matter are as follows:

Cebu Shipyard and Engineering Works, Inc. (CSEW) is a domestic corporation engaged in the business of dry-docking and repairing of marine vessels while the private respondent, Prudential Guarantee and Assurance, Inc. (Prudential), also a domestic corporation is in the non-life insurance business.

William Lines, Inc. (plaintiff below) is in the shipping business. It was the owner of M/V Manila City, a luxury passenger-cargo vessel, which caught fire and sank on February 16, 1991. At the time of the unfortunate occurrence sued upon, subject vessel was insured with Prudential for P45,000,000.00 pesos for hull and machinery. The Hull Policy included an "Additional Perils (INCHMAREE)" Clause covering loss of or damage to the vessel through the negligence of, among others, ship repairmen. The Policy provided as follows:

"Subject to the conditions of this Policy, this insurance also covers loss of or damage to Vessel directly caused by the following:

xxx

Negligence of Charterers and/or Repairers, provided such Charterers and/or Repairers are not an Assured hereunder.

xxx

provided such loss or damage has not resulted from want of due diligence by the Assured, the Owners or Managers of the Vessel, of any of them. Masters, Officers, Crew or Pilots are not to be considered Owners

within the meaning of this Clause should they hold shares in the Vessel."

[2]

Petitioner CSEW was also insured by Prudential for third party liability under a Shiprepairer's Legal Liability Insurance Policy. The policy was for P10 million only, under the limited liability clause, to wit:

"7. Limit of Liability

The limit of liability under this insurance, in respect of any one accident or series of accidents, arising out of one occurrence, shall be [P10 million], including liability for costs and expense which are either:

(a) incurred with the written consent of the underwriters hereon; or

(b) awarded against the Assured." [3]

On February 5, 1991, William Lines, Inc. brought its vessel, M/V Manila City, to the Cebu Shipyard in Lapulapu City for annual dry-docking and repair.

On February 6, 1991, an arrival conference was held between representatives of William Lines, Inc. and CSEW to discuss the work to be undertaken on the M/V Manila City.

The contracts, denominated as Work Orders, were signed thereafter, with the following stipulations:

"10. The Contractor shall replace at its own work and at its own cost any work or material which can be shown to be defective and which is communicated in writing within one (1) month of redelivery of the vessel or if the vessel was not in the Contractor's Possession, the withdrawal of the Contractor's workmen, or at its option to pay a sum equal to the cost of such replacement at its own works. These conditions shall apply to any such replacements.

11. Save as provided in Clause 10, the Contractor shall not be under any liability to the Customer either in contract or for delict or quasi-delict or otherwise except for negligence and such liability shall itself be subject to the following overriding limitations and exceptions, namely:

(a) The total liability of the Contractor to the Customer (over and above the liability to replace under Clause 10) or of any sub-contractor shall be limited in respect of any defect or event (and a series of accidents arising out of the same defect or event shall constitute one defect or event) to the sum of Pesos Philippine Currency One Million only.

(b) In no circumstance whatsoever shall the liability of the Contractor or any Sub-Contractor include any sum in respect of loss of profit or loss of use of the vessel or damages consequential on such loss of use.

x x x

20. The insurance on the vessel should be maintained by the customer and/or owner of the vessel during the period the contract is in effect."^[4]

While the M/V Manila City was undergoing dry-docking and repairs within the premises of CSEW, the master, officers and crew of M/V Manila City stayed in the vessel, using their cabins as living quarters. Other employees hired by William Lines to do repairs and maintenance work on the vessel were also present during the dry-docking.

On February 16, 1991, after subject vessel was transferred to the docking quay, it caught fire and sank, resulting to its eventual total loss.

On February 21, 1991, William Lines, Inc. filed a complaint for damages against CSEW, alleging that the fire which broke out in M/V Manila City was caused by CSEW's negligence and lack of care.

On July 15, 1991 was filed an Amended Complaint impleading Prudential as co-plaintiff, after the latter had paid William Lines, Inc. the value of the hull and machinery insurance on the M/V Manila City. As a result of such payment Prudential was subrogated to the claim of P45 million, representing the value of the said insurance it paid.

On June 10, 1994, the trial court *a quo* came out with a judgment against CSEW, disposing as follows:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant, ordering the latter:

1. To pay unto plaintiff Prudential Guarantee and Assurance, Inc., the subrogee, the amount of Forty-five Million (P45 million) Pesos, with interest at the legal rate until full payment is made;
2. To pay unto plaintiff, William Lines, Inc., the amount of Fifty-six Million Seven Hundred Fifteen Thousand (P56,715,000.00) Pesos representing loss of income of M/V MANILA CITY, with interest at the legal rate until full payment is made;
3. To pay unto plaintiff, William Lines, Inc. the amount of Eleven Million (P11 million) as payment, in addition to what it received from the insurance company to fully cover the injury or loss, in order to replace the M/V MANILA CITY, with interest at the legal rate until full payment is made;
4. To pay unto plaintiff, William Lines, Inc. the sum of Nine Hundred Twenty-Seven Thousand Thirty-nine (P927,039.00) Pesos for the loss of fuel and lub (sic) oil on board the vessel when she was completely gutted by fire at defendant, Cebu Shipyard's quay, with interest at the legal rate until full payment is made;
5. To pay unto plaintiff, William Lines, Inc. the sum of Three Million Fifty-four Thousand Six Hundred Seventy-seven Pesos and Ninety-five centavos (P3,054,677.95) as payment for the spare parts and materials

used in the M/V MANILA CITY during dry-docking with interest at the legal rate until full payment is made;

6. To pay unto plaintiff William Lines, Inc. the sum of Five Hundred Thousand (P500,000.00) Pesos in moral damages;

7. To pay unto plaintiff, William Lines, Inc. the amount of Ten Million (P10,000,000.00) Pesos in attorney's fees; and to pay the costs of this suit."

CSEW (defendant below) appealed the aforesaid decision to the Court of Appeals. During the pendency of the appeal, CSEW and William Lines presented a "Joint Motion for Partial Dismissal" with prejudice, on the basis of the amicable settlement inked between Cebu Shipyard and William Lines only.

On July 31, 1996, the Court of Appeals ordered the partial dismissal of the case insofar as CSEW and William Lines were concerned.

On September 3, 1997, the Court of Appeals affirmed the appealed decision of the trial court, ruling thus:

"WHEREFORE, the judgment of the lower court ordering the defendant, Cebu Shipyard and Engineering Works, Inc. to pay the plaintiff Prudential Guarantee and Assurance, Inc., the subrogee, the sum of P45 Million, with interest at the legal rate until full payment is made, as contained in the decision of Civil Case No. CEB-9935 is hereby AFFIRMED."

With the denial of its motion for reconsideration by the Court of Appeal's Resolution dated February 13, 1998, CSEW found its way to this court via the present petition, contending that:

- I. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN HOLDING THAT CSEW HAD "MANAGEMENT AND SUPERVISORY CONTROL" OF THE M/V MANILA CITY AT THE TIME THE FIRE BROKE OUT.
- II. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN APPLYING THE DOCTRINE OF RES IPSA LOQUITUR AGAINST CSEW.
- III. THE COURT OF APPEALS' RULING HOLDING CSEW NEGLIGENT AND THEREBY LIABLE FOR THE LOSS OF THE M/V MANILA CITY IS BASED ON FINDINGS OF FACT NOT SUPPORTED BY EVIDENCE.
- IV. THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN RULING CSEW'S EXPERT EVIDENCE AS INADMISSIBLE OR OF NO PROBATIVE VALUE.
- V. THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN RULING THAT PRUDENTIAL HAS THE RIGHT OF SUBROGATION AGAINST ITS OWN INSURED.
- VI. ASSUMING ARGUENDO THAT PRUDENTIAL HAS THE RIGHT OF SUBROGATION AND THAT CSEW WAS NEGLIGENT IN THE

PERFORMANCE OF ITS OBLIGATIONS UNDER THE SHIPREPAIR CONTRACTS, THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN HOLDING THAT THE CONTRACTUAL PROVISIONS LIMITING CSEW'S LIABILITY FOR NEGLIGENCE TO A MAXIMUM OF P1 MILLION IS NOT VALID, CONTRARY TO THE APPLICABLE RULINGS OF THIS HONORABLE COURT.

Petitioner's version of the events that led to the fire runs as follows:

On February 13, 1991, the CSEW completed the drydocking of M/V Manila City at its grave dock. It was then transferred to the docking quay of CSEW where the remaining repair to be done was the replating of the top of Water Ballast Tank No. 12 (Tank Top No. 12) which was subcontracted by CSEW to JNB General Services. Tank Top No. 12 was at the rear section of the vessel, on level with the flooring of the crew cabins located on the vessel's second deck.

At around seven o' clock in the morning of February 16, 1991, the JNB workers trimmed and cleaned the tank top framing which involved minor hotworks (welding/cutting works). The said work was completed at about 10:00 a. m. The JNB workers then proceeded to rig the steel plates, after which they had their lunch break. The rigging was resumed at 1:00 p.m.

While in the process of rigging the second steel plate, the JNB workers noticed smoke coming from the passageway along the crew cabins. When one of the workers, Mr. Casas, proceeded to the passageway to ascertain the origin of the smoke, he noticed that smoke was gathering on the ceiling of the passageway but did not see any fire as the crew cabins on either side of the passageway were locked. He immediately sought out the proprietor of JNB, Mr. Buenavista, and the Safety Officer of CSEW, Mr. Aves, who sounded the fire alarm. CSEW's fire brigade immediately responded as well as the other fire fighting units in Metro Cebu. However, there were no WLI representative, officer or crew to guide the firemen inside the vessel.

Despite the combined efforts of the firemen of the Lapulapu City Fire Department, Mandaue Fire Department, Cordova Fire Department, Emergency Rescue Unit Foundation, and fire brigade of CSEW, the fire was not controlled until 2:00 a.m. of the following day, February 17, 1991.

On the early morning of February 17, 1991, gusty winds rekindled the flames on the vessel and fire again broke out. Then the huge amounts of water pumped into the vessel, coupled with the strong current, caused the vessel to tilt until it capsized and sank

When M/V Manila City capsized, steel and angle bars were noticed to have been newly welded along the port side of the hull of the vessel, at the level of the crew cabins. William Lines did not previously apply for a permit to do hotworks on the said portion of the ship as it should have done pursuant to its work order with CSEW.^[5]