

SECOND DIVISION

[G.R. No. 181833, January 26, 2011]

**INTERNATIONAL FREEPORT TRADERS, INC., PETITIONER, VS.
DANZAS INTERCONTINENTAL, INC., RESPONDENT.**

DECISION

ABAD, J.:

This case involves the liability of the consignee for electric charges, demurrage, and storage fees based on a contract for lease of services that it entered into with a cargo handler.

The Facts and the Case

In March 1997 petitioner International Freeport Traders, Inc. (IFTI) ordered a shipment of Toblerone chocolates and assorted confectioneries from Jacobs Suchard Tobler Ltd. of Switzerland (Jacobs) through its Philippine agent, Colombo Merchants Phils., Inc., under the delivery term "F.O.B. Ex-Works."

To ship the goods, Jacobs dealt with Danmar Lines of Switzerland (Danmar) which issued to Jacobs negotiable house bills of lading ^[1] signed by its agent, respondent Danzas Intercontinental, Inc. (Danzas). The bills of lading stated that the terms were "F.O.B." and "freight payable at destination," with Jacobs as the shipper, China Banking Corporation as the consignee, and IFTI as the party to be notified of the shipment. The shipment was to be delivered at the Clark Special Economic Zone with Manila as the port of discharge. The goods were also covered by Letters of Credit MK-97/0467 and MK-97/0468 under a "freight collect" arrangement.

Since Danmar did not have its own vessel, it contracted Orient Overseas Container Line (OOCL) to ship the goods from Switzerland. OOCL issued a non-negotiable master bill of lading, ^[2] stating that the freight was prepaid with Danmar as the shipper and Danzas as the consignee and party to be notified. The shipment was to be delivered at Angeles City in Pampanga. Danmar paid OOCL an arbitrary fee of US\$425.00 to process the release of the goods from the port and ship the same to Clark in Angeles City. The fee was to cover brokerage, trucking, wharfage, arrastre, and processing expenses.

The goods were loaded on board the OOCL vessel on April 20, 1997 and arrived at the port of Manila on May 14, 1997. Upon learning from Danmar that the goods had been shipped, Danzas immediately informed IFTI of its arrival. IFTI prepared the import permit needed for the clearing and release of the goods from the Bureau of Customs and advised Danzas on May 20, 1997 to pick up the document. Danzas got the import permit on May 26, 1997. At the same time, it asked IFTI to 1) surrender the original bills of lading to secure the release of the goods, and 2) submit a bank guarantee inasmuch as the shipment was consigned to China Banking

Corporation to assure Danzas that it will be compensated for freight and other charges.

But IFTI did not provide Danzas a bank guarantee, claiming that letters of credit already covered the shipment. IFTI insisted that Danzas should already endorse the import permit and bills of lading to OOCL since the latter had been paid an arbitrary fee. But Danzas did not do this.

Because IFTI did not provide Danzas with the original bills of lading and the bank guarantee, the latter withheld the processing of the release of the goods. Danzas reiterated to IFTI that it could secure the release of the goods only if IFTI submitted a bank guarantee. Ultimately, IFTI yielded to the request and applied for a bank guarantee which was approved on May 23, 1997. It claimed to have advised Danzas on even date of its availability for pick up but Danzas secured it only on June 6, 1997.

In a letter dated June 6, 1997, Danzas told IFTI that the issuance of a promissory note would assure the delivery of the goods to Clark. On June 10, 1997 IFTI faxed a letter to Danzas, stating that Edwin Mabazza of OOCL confirmed that it had been paid an arbitrary fee. IFTI maintained, however, that it was not in a position to decide whether Danzas was to be liable for the charges. Nonetheless, IFTI issued a promissory note and requested that the goods be released to avoid any further charges.

Minutes later, IFTI faxed another letter reiterating its request that the goods be released pending payment of whatever charges Danzas had incurred for the release and delivery of the goods to Clark. IFTI promised to pay Danzas any charges within five days upon delivery of the goods as soon as the investigation as to which company will shoulder the expenses is settled.

On June 13, 1997 Danzas secured the release of the goods and delivered the same to IFTI at Clark on June 16, 1997. IFTI faxed a letter to Danzas, confirming the delivery. IFTI also said that Danzas' General Manager and OOCL's Mabazza visited IFTI's office to settle the charges on the goods. Danzas agreed to charge IFTI only the electric charges and storage fees totaling P56,000.00 (or roughly US\$2,210.00) from the original billing of about US\$7,000.00. In turn, IFTI agreed to give Danzas another opportunity to service its account and requested it to disregard IFTI's June 10, 1997 fax letter where it said that it would no longer employ Danzas for its future shipments for Subic and Clark.

On January 19, 1998, however, Danzas wrote IFTI, demanding payment of P181,809.45 for its handling of the shipment. IFTI ignored the demand. On March 26, 1998 Danzas filed separate complaints for sum of money against IFTI and OOCL before the Metropolitan Trial Court (MeTC) of Parañaque City, Branch 78. The court subsequently dismissed the complaint against OOCL after it settled the case amicably.

In the main, Danzas claimed that IFTI engaged its services for P181,809.45 to process the release of the goods from the port and deliver it to IFTI at Clark but the latter reneged on its obligation, compelling Danzas to file the suit.

IFTI countered that it had no liability to Danzas since IFTI was not privy to the