

## THIRD DIVISION

[ G.R. No. 146018, June 25, 2003 ]

**EDGAR COKALIONG SHIPPING LINES, INC., PETITIONER, VS.  
UCPB GENERAL INSURANCE COMPANY, INC., RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

The liability of a common carrier for the loss of goods may, by stipulation in the bill of lading, be limited to the value declared by the shipper. On the other hand, the liability of the insurer is determined by the actual value covered by the insurance policy and the insurance premiums paid therefor, and not necessarily by the value declared in the bill of lading.

#### The Case

Before the Court is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, seeking to set aside the August 31, 2000 Decision<sup>[2]</sup> and the November 17, 2000 Resolution<sup>[3]</sup> of the Court of Appeals<sup>[4]</sup> (CA) in CA-GR SP No. 62751. The dispositive part of the Decision reads:

"IN THE LIGHT OF THE FOREGOING, the appeal is **GRANTED**. The Decision appealed from is **REVERSED**. [Petitioner] is hereby condemned to pay to [respondent] the total amount of P148,500.00, with interest thereon, at the rate of 6% per annum, from date of this Decision of the Court. [Respondent's] claim for attorney's fees [is] **DISMISSED**. [Petitioner's] counterclaims are **DISMISSED**."<sup>[5]</sup>

The assailed Resolution denied petitioner's Motion for Reconsideration.

On the other hand, the disposition of the Regional Trial Court's<sup>[6]</sup> Decision,<sup>[7]</sup> which was later reversed by the CA, states:

"WHEREFORE, premises considered, the case is hereby DISMISSED for lack of merit.

"No cost."<sup>[8]</sup>

#### The Facts

The facts of the case are summarized by the appellate court in this wise:

"Sometime on December 11, 1991, Nestor Angelia delivered to the Edgar Cokaliong Shipping Lines, Inc. (now Cokaliong Shipping Lines), **[petitioner] for brevity**, cargo consisting of one (1) carton of Christmas décor and two (2) sacks of plastic toys, to be transported on

board the **M/V Tandag** on its **Voyage No. T-189** scheduled to depart from Cebu City, on December 12, 1991, for Tandag, Surigao del Sur. [Petitioner] issued **Bill of Lading No. 58**, freight prepaid, covering the cargo. Nestor Angelia was both the shipper and consignee of the cargo valued, on the face thereof, in the amount of P6,500.00. Zosimo Mercado likewise delivered cargo to [petitioner], consisting of two (2) cartons of plastic toys and Christmas decor, one (1) roll of floor mat and one (1) bundle of various or assorted goods for transportation thereof from Cebu City to Tandag, Surigao del Sur, on board the said vessel, and said voyage. [Petitioner] issued **Bill of Lading No. 59** covering the cargo which, on the face thereof, was valued in the amount of P14,000.00. Under the **Bill of Lading**, Zosimo Mercado was both the shipper and consignee of the cargo.

"On December 12, 1991, Feliciano Legaspi insured the cargo, covered by **Bill of Lading No. 59**, with the UCPB General Insurance Co., Inc., **[respondent] for brevity**, for the amount of P100,000.00 `against all risks' under **Open Policy No. 002/91/254** for which she was issued, by [respondent], **Marine Risk Note No. 18409** on said date. She also insured the cargo covered by **Bill of Lading No. 58**, with [respondent], for the amount of P50,000.00, under **Open Policy No. 002/91/254** on the basis of which [respondent] issued **Marine Risk Note No. 18410** on said date.

"When the vessel left port, it had thirty-four (34) passengers and assorted cargo on board, including the goods of Legaspi. After the vessel had passed by the Mandaue-Mactan Bridge, fire ensued in the engine room, and, despite earnest efforts of the officers and crew of the vessel, the fire engulfed and destroyed the entire vessel resulting in the loss of the vessel and the cargoes therein. The Captain filed the required **Marine Protest**.

"Shortly thereafter, Feliciano Legaspi filed a claim, with [respondent], for the value of the cargo insured under **Marine Risk Note No. 18409** and covered by **Bill of Lading No. 59**. She submitted, in support of her claim, a **Receipt**, dated December 11, 1991, purportedly signed by Zosimo Mercado, and **Order Slips** purportedly signed by him for the goods he received from Feliciano Legaspi valued in the amount of P110,056.00. [Respondent] approved the claim of Feliciano Legaspi and drew and issued UCPB Check No. 612939, dated March 9, 1992, in the net amount of P99,000.00, in settlement of her claim after which she executed a **Subrogation Receipt/Deed**, for said amount, in favor of [respondent]. She also filed a claim for the value of the cargo covered by **Bill of Lading No. 58**. She submitted to [respondent] a **Receipt**, dated December 11, 1991 and **Order Slips**, purportedly signed by Nestor Angelia for the goods he received from Feliciano Legaspi valued at P60,338.00. [Respondent] approved her claim and remitted to Feliciano Legaspi the net amount of P49,500.00, after which she signed a **Subrogation Receipt/Deed**, dated March 9, 1992, in favor of [respondent].

"On July 14, 1992, [respondent], as subrogee of Feliciano Legaspi, filed a

complaint anchored on torts against [petitioner], with the Regional Trial Court of Makati City, for the collection of the total principal amount of P148,500.00, which it paid to Feliciano Legaspi for the loss of the cargo, praying that judgment be rendered in its favor and against the [petitioner] as follows:

WHEREFORE, it is respectfully prayed of this Honorable Court that after due hearing, judgment be rendered ordering [petitioner] to pay [respondent] the following.

1. Actual damages in the amount of P148,500.00 plus interest thereon at the legal rate from the time of filing of this complaint until fully paid;
2. Attorney's fees in the amount of P10,000.00; and
3. Cost of suit.

[Respondent] further prays for such other reliefs and remedies as this Honorable Court may deem just and equitable under the premises.'

[Respondent] alleged, *inter alia*, in its complaint, that the cargo subject of its complaint was delivered to, and received by, [petitioner] for transportation to Tandag, Surigao del Sur under '**Bill of Ladings**,' Annexes 'A' and 'B' of the complaint; that the loss of the cargo was due to the negligence of the [petitioner]; and that Feliciano Legaspi had executed **Subrogation Receipts/Deeds** in favor of [respondent] after paying to her the value of the cargo on account of the **Marine Risk Notes** it issued in her favor covering the cargo.

In its Answer to the complaint, [petitioner] alleged that: (a) [petitioner] was cleared by the Board of Marine Inquiry of any negligence in the burning of the vessel; (b) the complaint stated no cause of action against [petitioner]; and (c) the shippers/consignee had already been paid the value of the goods as stated in the **Bill of Lading** and, hence, [petitioner] cannot be held liable for the loss of the cargo beyond the value thereof declared in the **Bill of Lading**.

After [respondent] rested its case, [petitioner] prayed for and was allowed, by the Court *a quo*, to take the depositions of Chester Cokaliong, the Vice-President and Chief Operating Officer of [petitioner], and a resident of Cebu City, and of Noel Tanyu, an officer of the Equitable Banking Corporation, in Cebu City, and a resident of Cebu City, to be given before the Presiding Judge of Branch 106 of the Regional Trial Court of Cebu City. Chester Cokaliong and Noel Tanyu did testify, by way of deposition, before the Court and declared *inter alia*, that: [petitioner] is a family corporation like the **Chester Marketing, Inc.**; Nestor Angelia had been doing business with [petitioner] and Chester Marketing, Inc., for years, and incurred an account with Chester Marketing, Inc. for his purchases from said corporation; [petitioner] did issue **Bills of Lading Nos. 58 and 59** for the cargo described therein with Zosimo Mercado and Nestor Angelia as shippers/consignees, respectively; the engine

room of the **M/V Tandag** caught fire after it passed the Mandaue/Mactan Bridge resulting in the total loss of the vessel and its cargo; an investigation was conducted by the Board of Marine Inquiry of the Philippine Coast Guard which rendered a Report, dated February 13, 1992 absolving [petitioner] of any responsibility on account of the fire, which Report of the Board was approved by the District Commander of the Philippine Coast Guard; a few days after the sinking of the vessel, a representative of the Legaspi Marketing filed claims for the values of the goods under **Bills of Lading Nos. 58 and 59** in behalf of the shippers/consignees, Nestor Angelia and Zosimo Mercado; [petitioner] was able to ascertain, from the shippers/consignees and the representative of the Legaspi Marketing that the cargo covered by **Bill of Lading No. 59** was owned by Legaspi Marketing and consigned to Zosimo Mercado while that covered by **Bill of Lading No. 58** was purchased by Nestor Angelia from the Legaspi Marketing; that [petitioner] approved the claim of Legaspi Marketing for the value of the cargo under **Bill of Lading No. 59** and remitted to Legaspi Marketing the said amount under Equitable Banking Corporation Check No. 20230486 dated August 12, 1992, in the amount of P14,000.00 for which the representative of the Legaspi Marketing signed Voucher No. 4379, dated August 12, 1992, for the said amount of P14,000.00 in full payment of claims under **Bill of Lading No. 59**; that [petitioner] approved the claim of Nestor Angelia in the amount of P6,500.00 but that since the latter owed Chester Marketing, Inc., for some purchases, [petitioner] merely set off the amount due to Nestor Angelia under **Bill of Lading No. 58** against his account with Chester Marketing, Inc.; [petitioner] lost/[misplaced] the original of the check after it was received by Legaspi Marketing, hence, the production of the microfilm copy by Noel Tanyu of the Equitable Banking Corporation; [petitioner] never knew, before settling with Legaspi Marketing and Nestor Angelia that the cargo under both **Bills of Lading** were insured with [respondent], or that Feliciano Legaspi filed claims for the value of the cargo with [respondent] and that the latter approved the claims of Feliciano Legaspi and paid the total amount of P148,500.00 to her; [petitioner] came to know, for the first time, of the payments by [respondent] of the claims of Feliciano Legaspi when it was served with the summons and complaint, on October 8, 1992; after settling his claim, Nestor Angelia x x x executed the **Release and Quitclaim**, dated July 2, 1993, and **Affidavit**, dated July 2, 1993 in favor of [respondent]; hence, [petitioner] was absolved of any liability for the loss of the cargo covered by **Bills of Lading Nos. 58 and 59**; and even if it was, its liability should not exceed the value of the cargo as stated in the **Bills of Lading**.

"[Petitioner] did not anymore present any other witnesses on its evidence-in-chief. x x x"<sup>[9]</sup> (Citations omitted)

### **Ruling of the Court of Appeals**

The CA held that petitioner had failed "to prove that the fire which consumed the vessel and its cargo was caused by something other than its negligence in the upkeep, maintenance and operation of the vessel."<sup>[10]</sup>

Petitioner had paid P14,000 to Legaspi Marketing for the cargo covered by Bill of Lading No. 59. The CA, however, held that the payment did not extinguish petitioner's obligation to respondent, because there was no evidence that Feliciano Legaspi (the insured) was the owner/proprietor of Legaspi Marketing. The CA also pointed out the impropriety of treating the claim under Bill of Lading No. 58 — covering cargo valued therein at P6,500 — as a setoff against Nestor Angelia's account with Chester Enterprises, Inc.

Finally, it ruled that respondent "is not bound by the valuation of the cargo under the Bills of Lading, x x x nor is the value of the cargo under said Bills of Lading conclusive on the [respondent]. This is so because, in the first place, the goods were insured with the [respondent] for the total amount of P150,000.00, which amount may be considered as the face value of the goods."<sup>[11]</sup>

Hence this Petition.<sup>[12]</sup>

### **Issues**

Petitioner raises for our consideration the following alleged errors of the CA:

"I

"The Honorable Court of Appeals erred, granting arguendo that petitioner is liable, in holding that petitioner's liability should be based on the 'actual insured value' of the goods and not from actual valuation declared by the shipper/consignee in the bill of lading.

"II

"The Court of Appeals erred in not affirming the findings of the Philippine Coast Guard, as sustained by the trial court a quo, holding that the cause of loss of the aforesaid cargoes under Bill of Lading Nos. 58 and 59 was due to force majeure and due diligence was [exercised] by petitioner prior to, during and immediately after the fire on [petitioner's] vessel.

"III

"The Court of Appeals erred in not holding that respondent UCPB General Insurance has no cause of action against the petitioner."<sup>[13]</sup>

In sum, the issues are: (1) Is petitioner liable for the loss of the goods? (2) If it is liable, what is the extent of its liability?

### **This Court's Ruling**

The Petition is partly meritorious.

#### **First Issue:** ***Liability for Loss***

Petitioner argues that the cause of the loss of the goods, subject of this case, was