

## SECOND DIVISION

[ G.R. No. 112233, July 31, 1996 ]

**COKALIONG SHIPPING LINES, INC., PETITIONER, VS. HON. OMAR U. AMIN, PRESIDING JUDGE OF THE RTC, MAKATI, BRANCH 135 AND PRUDENTIAL GUARANTEE & ASSURANCE, INC., RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

This is a petition for certiorari to annul the Order, dated September 1, 1993, of the Regional Trial Court of Makati, Branch 135, denying petitioner's Motion to Dismiss Civil Case No. 93-319 (*Prudential Guarantee and Assurance, Inc. v. Edgar Cokaliong Shipping Lines*) on the ground of *litis pendentia* and the Order, dated October 7, 1993, denying petitioner's Motion for Reconsideration.

On May 5, 1992, petitioner filed a Complaint for Damages, with Prayer for Writ of Preliminary Attachment, against Carlos A. Go Thong Lines and Eugenio Manubag, Jr. The case was filed with the Regional Trial Court of Cebu, where it was docketed as Civil Case No. 11660 and assigned to Branch XII thereof.<sup>[1]</sup> The petitioner alleged that by reason of defendants' negligence, a collision took place on April 3, 1992 between its vessel, the *M/V Filipinas Tandag* and Go Thong Lines' vessel, the *M/V Our Lady of Lourdes*. Petitioner and its coplaintiffs, who were crew members of its vessel, prayed that Go Thong Lines and the master of the other vessel, Eugenio Manubag, be held solidarily liable for damages.

Defendants filed an Answer with Counterclaim, denying negligence on their part and alleging that "the collision was caused by the faulty, erratic and erroneous maneuvers of [petitioner's vessel] and the lack of skill, poor seamanship, imprudence, lack of care and negligence of the officers and crew of [petitioner]."

On February 1, 1993, private respondent, as insurer of Go Thong Lines, filed a Complaint against herein petitioner. The case was filed with the Regional Trial Court of Makati, Branch 135, where it was docketed as Civil Case No. 93-319.<sup>[2]</sup> Private respondent claimed that it had paid the insured the amount of P2,420,325.59 and, by virtue thereof, had been subrogated to the rights of Go Thong Lines against petitioner. The complaint contained the same allegations stated in Go Thong Lines' Answer with Counterclaim in Civil Case No. 11660, to the effect that the collision had been caused by the faulty maneuvers of petitioner's vessel and the gross negligence of its officers and crew.

Petitioner filed on August 3, 1993 a Motion to Dismiss Civil Case No. 93-319 (Makati Case) due to the pendency of Civil Case No. 11660 (Cebu Case) on the ground that the two cases involved the same parties, the same causes of action and the same issues. But petitioner's motion was denied by the trial court which held that there