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[G.R. No. L-26480. June 15, 1972]

FEDERAL INSURANCE COMPANY, *plaintiff-appellant, vs.* REPUBLIC OF THE PHILIPPINES, *defendant-appellee.*

SYLLABUS

CONSTITUTIONAL LAW; STATE'S IMMUNITY FROM SUIT; BUREAU OF CUSTOMS IMMUNE FROM SUIT.— The dismissal of the instant complaint against the Republic of the Philippines for recovery of a sum of money representing the value of the shortages in the delivery of the goods therein mentioned, thru its agency the Bureau of Customs, must be sustained as We have held in Mobil Philippines Exploration, Inc. *vs.* Customs Arrastre Service, (L-23139, Dec. 17, 1966), and reiterated in a number of subsequent decisions, that "the Bureau of Customs, acting as part of the machinery of the national government in the operation of the arrastre service, pursuant to express legislative mandate and as a necessary incident of its prime governmental function, is immune from suit, there being no statute to the contrary."

APPEARANCES OF COUNSEL

Quasha, Asperilla, Blanco, Zafra & Tayag for plaintiff-appellant.

Solicitor General Antonio P. Barredo, Assistant Solicitor General Isidro C. Borromeo and *Solicitor Lolita O. Gal-lang* for defendant-appellant.

DECISION

MAKALINTAL, *J.*:

Appeal from the order of the Court of First Instance of Manila dismissing the complaint in its Civil Case No. 65717.

The complaint filed on June 11, 1966 is against the Republic of the Philippines for recovery of a sum of money, and alleges: that on various dates, from August 11, 1964 to November 6, 1964, several boxes of portable typewriters imported by Singer

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Sewing Machine Company, Manila, were discharged from carrying vessels complete and in good order into the custody of the defendant, through its agencies, the Bureau of Customs and Customs Arrastre Service; that the defendant delivered said merchandise to the importer with shortages valued at P8,655.55; that as insurer of the goods the plaintiff paid the importer the said amount and was thereby subrogated to it in respect to all rights of recovery; and that notwithstanding repeated demands, the defendant failed and refused to pay for the loss sustained by the plaintiff.

On July 6, 1966 the defendant moved to dismiss the complaint on the ground that the court lacked jurisdiction over the person and subject-matter of the suit and that the plaintiff had no cause of action against the defendant. On July 23 following the court *a quo*, over the plaintiff's opposition, granted the motion on the grounds of lack of jurisdiction and non-suability of the State without its consent. Hence the instant appeal.

The order of dismissal must be sustained. As we held in Mobil Philippines Exploration, Inc. *vs.* Customs Arrastre Service, 18 SCRA 1120 (December 17, 1966), and reiterated in a number of subsequent decisions, "the Bureau of Customs, acting as part of the machinery of the national government in the operation of the arrastre service, pursuant to express legislative mandate and as a necessary incident of its prime governmental function, is immune from suit, there being no statute to the contrary."

WHEREFORE, the order appealed from is affirmed, without costs.

Concepcion, C.J., Reyes, J.B.L., Zaldivar, RuizCastro, Fernando, Teehankee, Barredo, Makasiar, and *Antonio JJ.*, concur