

Fimbank Plc (Appellant) v KCH Shipping Co Ltd (Respondent)

Case ID: UKSC 2023/0085

Case summary

Issues

Whether the one-year time limit in Article III, rule 6 of the Hague Visby Rules applies to claims for misdelivery of cargo after discharge of the cargo from the vessel.

Facts

The appellant (FIMBank plc) was the holder of 13 bills of lading dated either 4th or 14th March 2018 covering a cargo of approximately 85,510 metric tons of steam coal which was shipped in bulk on board the vessel "GIANT ACE" in Indonesia and discharged in India between 1st and 18th April 2018. The respondent (KCH Shipping Co Ltd) was the demise charterer of the vessel and the contractual carrier under the bills of lading. The bills of lading incorporated the terms of a charterparty which stated that the Hague-Visby Rules shall apply to any bill of lading issued under the charterparty.

The appellant claims damages from the respondent for misdelivery of the cargo to persons who are not entitled to receive it. The alleged misdelivery occurred after discharge of the cargo from the vessel at the destination port, Jaigarh port on the west coast of India. The appellant argues that the Hague Visby Rules apply only to carriage by sea, which ends on discharge of the cargo from the vessel and the Hague Visby Rules therefore cease to apply thereafter. As such the appellant says that its claim for misdelivery after discharge falls within the six-year time limit set down in the Limitation Act 1980.

The respondent argues that the Hague Visby Rules as a whole apply to all obligations undertaken by the carrier under the bill of lading contract up to and including delivery and, in any event, Article III, rule 6 specifically applies up to and including delivery, irrespective of whether delivery occurs prior to or after discharge of the cargo from the vessel. The appellant was unsuccessful both in the High Court and the Court of Appeal. It now appeals to the Supreme Court.

Judgment appealed

[\[2023\] EWCA Civ 569](#)

Parties

Appellant(s)

Fimbank P.L.C

Respondent(s)

KCH Shipping Co., Ltd

Appeal

Justices

Lord Hodge, Lord Sales, Lord Hamblen, Lord Leggatt, Lord Richards

Hearing start date

17 July 2024

Hearing finish date

18 July 2024

Watch hearing

17 July 2024 [Morning session](#) [Afternoon session](#)

18 July 2024 [Morning session](#)