



# ***DEL ROSARIO PANDIPHIL Inc.***

## **Philippine Shipping Update – Manning Industry**

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., April 19, 2012 (Issue 2012/05)

### **Supreme Court rules prescriptive period for illegal dismissal cases is four years and not three years**

The seafarer was repatriated due to an eye ailment when a foreign article accidentally entered his eye. He was repatriated for further medical treatment on 6 December 2000. He was treated until February, 2001. As he had not been assessed whether he was fit to work as a seafarer, he filed a complaint for illegal dismissal on 28 May 2001. However, the complaint was dismissed without prejudice by the Labor Arbiter on the same date it was filed. On 13 December 2004, he filed another complaint claiming illegal dismissal and payment of disability benefits, damages and attorney's fees.

The Labor Arbiter dismissed the complaint on the ground of prescription. On appeal, the NLRC sided with the seafarer and ordered the Labor Arbiter to hear the case. Vessel interests appealed to the Court of Appeals which denied the vessel's petition.

When the case reached the Supreme Court, the only issue presented was whether the claim of the seafarer had already prescribed. The Supreme Court answered in the negative.

The Supreme Court ruled that the cause of action of the seafarer is based on "injury to rights" which under the Civil Code of the Philippines, prescribes in four (4) years from the time the cause of action accrues. The Supreme Court held:

"It is a principle in American jurisprudence which, undoubtedly, is well-recognized in this jurisdiction that one's employment, profession, trade or calling is a "property right," and the wrongful interference therewith is an actionable wrong. The right is considered to be property within the protection of a constitutional guaranty of due process of law. Clearly then, when one is arbitrarily and unjustly deprived of his job or means of livelihood, the action instituted to contest the legality of one's dismissal from employment constitutes, in essence, an action predicated "upon an injury to the rights of the plaintiff," as contemplated under Art. 1146 of the New Civil Code, which must be brought within four (4) years."

The Supreme Court also held that when the seafarer filed his complaint on 28 May 2001 (although dismissed on without prejudice on the same date), such action tolled the running of the prescriptive period. When the seafarer filed the complaint again on 13 December 2004, the same can be considered filed on time. It was held:

"As in other causes of action, the prescriptive period for money claims is subject to interruption, and in view of the absence of an equivalent Labor Code provision for determining when said period may be interrupted, Article 1155 of the Civil Code is

applicable. It states that:

Article 1155. The prescription of actions is interrupted when they are filed before the Court, when there is written extra-judicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor.

Records reveal that after his disembarkation from the vessel "MV Kyushu Spirit" on 6 December 2000, private respondent filed on 28 May 2001 a complaint for illegal dismissal before the Arbitration Branch of the NLRC. His complaint was dismissed by the Labor Arbiter on the same date. In accordance with Section 16, Rule V of the NLRC Rules of Procedure, private respondent can re-file a case in the Arbitration Branch of origin. Since the filing of his first complaint on 28 May 2001 tolled the running of the period of prescription, both the NLRC and the CA were correct in ruling that the filing of respondent's second complaint with money claims on 13 December 2004 was clearly filed on time."

Author's Note: Under the Labor Code of the Philippines, particularly, Art. 291 thereof, "all money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred." In the same manner, under Section 30 of the POEA Standard Employment Contract, "all claims arising from this contract shall be made within three (3) years from the date the cause of action accrues; otherwise the same shall be barred."

Reviewing past decisions of the Supreme Court on the matter, if the claim is purely a "money claim", the prescriptive period for filing a claim is three years from the date the cause of action accrued. However, if the claim is one for illegal dismissal, the prescriptive period is four years from the date the cause of action accrued because the cause of action is considered as an "injury to the rights of the plaintiff" as contemplated under Article 1146 of the Civil Code of the Philippines.

*Teekay Shipping Phils., Inc. and/or Teekay Shipping Canada vs. Ramier Concha ; G.R. No.185463; Second Division ; February 22,2012 ; Supreme Court Associate Justice Jose Portugal Perez, Ponente*

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This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email [ruben.delrosario@delrosario-pandiphil.com](mailto:ruben.delrosario@delrosario-pandiphil.com).

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