



DEL ROSARIO PANDIPHIL Inc.

Philippine Shipping Update – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., June 21, 2012 (Issue 2012/08)

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Seaman, during the term of his employment suffered a heart attack. He was repatriated but unfortunately passed away. Gilda, the seaman's wife, filed a complaint for death benefits with the Labor Arbiter. The children of the seaman from a previous marriage (which was already declared void) contested the complaint. The children alleged that at the time the seaman married Gilda, the latter had a subsisting marriage which was not yet declared void. As such, the marriage of the seaman with Gilda is bigamous and she cannot be considered as a proper heir. During the conferences, the company manifested their intention to pay death benefits but considering that there is a dispute as to who is/are the proper heirs, they are not able to conclude payment.

The Supreme Court held that while the Labor Arbiter had jurisdiction to determine entitlement to death benefits, the determination of who the legal heirs are (i.e. the rightful recipients of the death benefits) falls within the jurisdiction of the regular courts. The Supreme Court ordered the company to deposit the death benefits to an escrow account under the control of the NLRC in order to protect the interests of the heirs. The heirs were also directed to initiate the necessary proceedings with the regular courts to determine the true heirs of the seaman who should be entitled to disability benefits. The amount in escrow would only be released to the legal heirs as per decision of the trial court.

Gilda Lunzaga vs. Albar Shipping & Trading Corp. and/or Akira Kato and Darwin, Venus, Romeo Ulysses, Marikit Odessa, all surnamed Lunzaga; G.R. No. 200476; Minute Resolution; First Division, April 18, 2012; (Attys. Gina Guinto and Joseph Rebano of Del Rosario & Del Rosario handled the vessel interests).

Philippine ratify International Labor Convention 185 (Seafarers' Identity Documents Convention), submits to ILO Instrument of Ratification

On 11 October 2011, the Philippines, through President Benigno S. Aquino III, ratified International Labor Convention 185 or the Seafarers' Identity Documents Convention. The Instrument of Ratification has already been submitted to the International Labor Organization (ILO) on 19 January 2012 and will undergo the usual process of formal registration. Pending its formal registration with the ILO, the Philippine Government, through its Brazilian Embassy, had informed the Foreign Ministry of Brazil of the Philippines' ratification of the Convention. In 2011, the Brazilian port authorities imposed strict immigration regulations and stiff fines on seafarers who are nationals of countries not a signatory to the Convention.

The Seafarers' Identity Documents Convention is aimed to facilitate the admission of seafarers with the required Seafarer's Identification Document in the territory of other ratifying countries for shore leave, joining or transferring another ship, passing in transit to join the ship, repatriation or any other purpose approved by the authorities.

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from Asia-Pacific, The Legal 500, 2012, p. 388

"This unparalleled shipping firm remains at the forefront of the market." "They are in a league of their own." "They are the runaway leaders in shipping." Chambers Asia Pacific, 2012 p. 832

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.

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Del Rosario Pandiphil Inc. / Del Rosario & Del Rosario

Office Address: 15th Floor, Pacific Star Building, Makati Avenue, 1200 Makati City, Philippines

Telephone: 63 2 810 1791 * Fax: 63 2 817 1740/ 63 2 810 3632

24/7 Emergency Mobile: (63) (917) 830-8384; mail@delrosario-pandiphil.com; www.delrosario-pandiphil.com

