

## NATIONAL SHIPYARDS AND STEEL CORPORATION, PETITIONER, VS. MARTIN ARTOZ, ET AL., RESPONDENTS.

*G.R. No. L-17349. April 23, 1962*

Ponente: CONCEPCION, J.

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### CONCEPCION, J.:

Appeal by certiorari from two (2) orders of the Court of Industrial Relations.

On November 22, 1957, said court issued an order in Case No. 1058-V thereof, in which the National Shipyards and Steel Corporation, hereinafter referred to as the NASSCO, was respondent, and Jose Abiday and fifty-eight (58) other persons, hereinafter referred to as Abiday et al., were petitioners, the dispositive part of which reads:

"IN VIEW OF ALL THE FOREGOING, the respondent is hereby ordered to pay the petitioners an additional 25% for work rendered in excess of eight (8) hours on ordinary days including Sundays, legal holidays and nighttime—(See Luzon Marine Department Union vs. Luzon Stevedoring Co. Case No. 147-V).

"For the purpose of determining the amount due to each of the petitioners, the Examiner of the Court or his duly authorized representative is hereby directed to make the computation, taking as basis, in accordance with the stipulation of parties, the logbook of the vessels, time sheets and other pertinent records of the respondent."

On Appeal to this Court, taken by the NASSCO, said order was affirmed, in G. R. No. L-13888,[\*] on April 29, 1960. Meanwhile, on or about March 7, 1960, Ramon Dimanalata, Renato Reynoso, Martin Artoz, Herberto Amane, Lucio Guinoo, Nicasio Murzo, Antonio Zacarias, Vicente Venturillo, Dionisio Diana, Jose Vicente and Hermogenes Sangalang, hereinafter referred to as Dimanalata et al., had filed, in said Case No. 1058-V of the Court of Industrial Relations, a petition stating that they are and/or were, like Abiday, et al., employees of the NASSCO, and that Dimanalata et al. are in the same position as Abiday et al., in relation to the NASSCO, and, praying, therefore, that the benefits, rights and privileges granted to Abiday et al., in the order of November 22, 1957, be extended to Dimanalata et al. Despite the opposition of the NASSCO, the Court of Industrial Relations issued an order, dated May 31, 1960, granting said petition. A reconsideration of this order having been denied by the court en banc, on July 22, 1960, the NASSCO, filed the present petition for review of the resolution of that date and of the order of May 31, 1960. Although, on September 9, 1960, we dismissed the petition, the same was, on motion for reconsideration filed by the NASSCO, given due course on October 4, 1960.

The NASSCO maintains that the order and resolution of the lower court dated May 31 and July 22, 1960, are null and void: (1) because said court had no jurisdiction over the subject-matter of the claims of Dimanalata et al.; and (2) because said claims are barred by the statute of limitations.

The first ground is based upon the theory that five (5) of the present claimants were no longer employees of the NASSCO when their petition of March 7, 1960 was filed, they having been separated from the service on the dates given after their respective names, to wit:

Martin Artoz.....

May 15, 1959

Herberto Amane .....

May 15, 1959

Vicente Venturillo .....

June 16, 1954

Dionisio Diana .....

May 15, 1959

Hermogenes Sangalang .....

May 7, 1954

The second ground is predicated upon Republic Act No. 1993, amending Commonwealth Act No. 444 (The EightHour Labor Law), by inserting therein a section 7-A, reading:

"Any action to enforce any cause of action under this Act shall be commenced within three years after the cause of action accrued, otherwise such action shall be forever barred: Provided, however, That actions already commenced before the effective date of this Act shall not be affected by the period herein prescribed."

It should be noted, however, that the validity of the orders complained of cannot be affected by the aforementioned statutory period, even if applicable. An improper refusal to apply the statute of limitations would render said orders erroneous, but not null and void. At any rate, Republic Act No. 1993 was approved and became effective on June 22, 1957, and "actions already commenced" before its effectivity "shall not be affected by the period" prescribed therein, pursuant to the proviso thereof. Abiday et al. filed their petition for overtime pay on April 10, 1957. Hence, their action was already pending in the lower court before said Act became effective and was not subject to the prescriptive period set forth therein.

Neither is said period applicable to Dimanalata et al., for theirs is not a new or separate "action". The present proceedings is a mere incident of the execution of the order of the lower court of November 22, 1957, as affirmed by this Court, on April 29, 1960, in L-13888. Dimanalata et al. ask no more than the extension to them of the benefits, rights and privileges granted in said order of November 22, 1957 to Abiday et al.

As regards the question of jurisdiction, it is obvious that the same cannot affect those who, admittedly, are still in the employment of the NASSCO, namely, Ramon Dimanalata, Renato Reynoso, Lucio Guinoo, Nicasio Murzo, Antonio Zacarias and Jose Vicente; Moreover, in paragraph (2) of its opposition to the petition of Dimanalata et al, the NASSCO admitted, also, that these claimants are its employees, although as "ordinary seamen" to whom, it maintained, Commonwealth Act No. 444 was inapplicable. Hence, the order appealed from says:

"Respondent corporation did not present evidence to deny or controvert the proof adduced by the present 11 claimants and submitted its case relying on the grounds of its opposition that (a) the order of November 22,

1957 could not be made applicable to Dimanalata and 10 companions because they are not parties to the above-entitled cases; (b) C.A. No. 444, otherwise known as the Eight Hour Labor Law, does not apply to the present claimants, they being ordinary seamen; (c) this case is now on appeal with the Supreme Court, docketed as G.R. No. L-13888, to determine the legality of the order of this Court afore-quoted; and (d) the cause of action has already prescribed and barred by the statute of limitations as provided for by R.A. No. 1993, amending C.A. No. 444."

Again, it appears that the stipulation of facts submitted in connection with the claim of Jose Abiday et al. stated specifically that some of them were "formerly employed" by the NASSCO; that the latter objected to the jurisdiction of the lower court to entertain the claim of Abiday et al.; that said court overruled the objection; that the NASSCO appealed by certiorari to this Court in G. R. No. L-13732, upon the ground, among others, of said alleged lack of jurisdiction of the lower court; that, on April 11, 1958, the petition for review in said case L-13732 was dismissed by this Court, for lack of merit; that in case No. L-13888, the NASSCO again raised said question of alleged lack of jurisdiction of the lower court; and that this Court, in its decision of April 29, 1960 in L-13888, once more affirmed the order of the lower court asserting its jurisdiction to entertain the claim of Abiday et al. Said decision in L-13888 and our resolution dismissing the petition in L-13732, constitute, therefore, part of the law of the case, insofar as the jurisdiction of the lower court to adjudicate on claims for overtime of former employees who do not seek reinstatement is concerned and bars the NASSCO from raising the same issue for the third time in the same case No. 1058-V of the Court of Industrial Relations (*Jalandoni vs. Martir-Guanzon*, 102 Phil., 859; 54 Off. Gaz. [9] 2907; *Tantongco vs. Kaisahan ng mga Manggagawa sa La Campana*, 106 Phil., 198; 57 Off. Gaz. [29] 5229; *Tanda vs. Aldaya*, L-13423, November 23, 1959; *Testate Estate of Narciso Padilla, Vda. de Padilla vs. Paterno*, 113 Phil., 656).

Wherefore, the order and the resolution appealed from are hereby affirmed, with costs against the National Shipyards and Steel Corporation. It is so ordered.

Bengzon, C. J., Bautista Angelo, Labrador, Reyes, J. B. L., Paredes, and Dizon, JJ., concur.

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\* 107 Phil., 1006; 58 Off. Gaz., (36) 5875.

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