ROBERTO R. SERRANO, PETITIONER, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION, MAERSK-FILIPINAS CREWING, INC. AND A.P. MOLLER, RESPONDENTS.

G.R. No. 139420. August 15, 2001

Ponente: PUNO, J.

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PUNO, J.:

Were it not for petitioner's relentless efforts, his claim for portions of his salary as a seaman would now be sunk into oblivion. The ebb and flow of his claim will now rest as he is finally awarded what has long been due him.

This is a petition for review on certiorari to nullify the resolutions of the Court of Appeals dated June 18, 1999 and July 15, 1999 dismissing outrightly the petition for certiorari filed by petitioner for having been filed out of time.

The following facts spurred the present controversy:

From 1974 to 1991, respondent Maersk-Filipinas Crewing, Inc., the local agent of respondent foreign corporation A.P. Moller, deployed petitioner Serrano as a seaman to Liberian, British and Danish ships.[1] As petitioner was on board a ship most of the time, respondent Maersk offered to send portions of petitioner’s salary to his family in the Philippines. The amounts would be sent by money order. Petitioner agreed and from 1977 to 1978, he instructed respondent Maersk to send money orders to his family. Respondent Maersk deducted the amounts of these money orders totaling HK$4,600.00 and £1,050.00 Sterling Pounds from petitioner's salary.[2] Respondent Maersk, it is also alleged, deducted various amounts from his salary for Danish Social Security System (SSS), welfare contributions, ship club, and SSS Medicare.

It appears that petitioner's family failed to receive the money orders petitioner sent through respondent Maersk.[3] Upon learning this in 1978, petitioner demanded that respondent Maersk pay him the amounts the latter deducted from his salary. Respondent Maersk assured him that they would look into the matter, then assigned him again to board one of their vessels.

Whenever he returned to the Philippines, petitioner would go to the office of respondent Maersk to follow up his money claims but he would be told to return after several weeks as respondent Maersk needed time to verify its records and to bring up the matter with its principal employer, respondent A.P. Moller. Meantime, respondent Maersk would hire him again to board another one of their vessels for about a year.

Finally, in October 1993, petitioner wrote to respondent Maersk demanding immediate payment to him of the total amount of the money orders deducted from his salary from 1977 to 1978.[4] On November 11, 1993, respondent A.P. Moller replied to petitioner that they keep accounting documents only for a certain number of years, thus data on his money claims from 1977 to 1978 were no longer available. Likewise, it was claimed that it had no outstanding money orders. A.P. Moller declined petitioner's demand for payment.[5]

In April 1994, petitioner filed a complaint for collection of the total amount of the unsent money orders and illegal

salary deductions against the respondent Maersk in the Philippine Overseas Employment Agency (POEA). The case was transferred to the NLRC where Labor Arbiter Arthur Amansec ruled, viz:

> "Anent the deductions from his salary of "Welfare/Ship Club" contributions, these deductions are compulsory deductions pursuant to Department Order No. 898 dated December 27, 1990 of the Danish Maritime Authority. Being government imposed deductions, the same cannot be said to be unlawful. In fact, a non-deduction could have been unlawful and could have meant official sanctions against the respondents.
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> Regarding the Danish SSS deductions of forty-four dollars ($44.00) for a period of three (3) months in 1991, it appearing that the same were for payments of complainants' medical insurance and expenses, the same cannot be said to be illegal.
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> Regarding to (sic) complainant's claim for payment of and/or refund of seven (7) money orders for the period covering 1977 to 1978, while the respondents claim payment of that claim, it failed to present competent evidence of payment such that this Office is constrained to approve this claim as warranted.
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> x x x x x x x x x
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> WHEREFORE, judgment is hereby made ordering the respondent and/or TICO Insurance Co., Inc. to refund to complainant his untransmitted money order payment of HK$4,600 and 1,050 Sterling Pounds.
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> Respondent TICO Insurance Co., Inc.('s) cross-claim against respondent, for being meritorious, is hereby APPROVED.
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> Other claims for lack of merit, are ordered DISMISSED."[6]

Respondent Maersk appealed to the NLRC the Labor Arbiter's grant of the claim for the amount of unsent money orders. The NLRC reversed and set side Labor Arbiter Amansec's decision and dismissed the case on the ground of prescription, viz:

> "The Appeal is impressed with merit. Primarily we find that the complainant's claim that the money orders he sent to his brother Arturo Serrano in the years 1977 to 1978 were not received by the latter and his claim against respondent to pay him the alleged amounts of HK$4,600 and 1,050 (Position Paper) or US$2,050.00 (Affidavit-complaint) has indeed prescribed. Under Article 251 (sic) of the Labor Code as amended and we quote:
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> 'Article 291. Money claims. All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three years from the time the cause of action accrued, otherwise they shall be forever barred.'

In the instant case, complainant's cause of action accrued in 1977 and 1978 but he filed a complaint only on April 20, 1994. Clearly, complainant has slept on his rights and allowed himself to be overtaken by prescription."

On March 4, 1999, petitioner filed a motion for reconsideration of the NLRC decision. It was denied for lack of merit.

Petitioner sought recourse in the Court of Appeals. The appellate court dismissed his petition for having been filed out of time. Petitioner's motion for reconsideration of the appellate court's resolution having been denied, he appealed to this Court with the lone assignment of error, viz:

> "RESPONDENT COURT OF APPEALS ERRED IN DISMISSING THE PETITION ON MERE TECHNICALITIES RATHER THAN ON THE MERITS OF THE CASE."

The Labor Arbiter's dismissal of petitioner's complaint for illegal salary deductions was not appealed and has thus become final. In his petition before this Court, petitioner takes issue only on the dismissal of his claim for the

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unsent money orders.

We shall first deal with the issue on the period for filing a petition for review from a decision of the NLRC to the Court of Appeals.

Applying the law then applicable, the Court of Appeals correctly dismissed the petition for certiorari for having been filed out of time, viz:

> ". . . Pursuant to Section 4 of the Rule, as amended effective September 1, 1998, such a petition should be filed within sixty days, computed as follows:
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> 'SEC. 4. Where and when petition to be filed. - The petition may be filed not later than sixty (60) days from notice of judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.
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> 'If petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.'

In the instant petition, the petitioner himself states that on February 26, 1999, he received a copy of the impugned decision of the National Labor Relations Commission; and on March 4, 1999, he filed his motion for reconsideration. Thus, he had already used up six (6) days of the reglementary 60-day period so that he had only fifty-four (54) days from notice of the denial of his motion for reconsideration within which to file his petition. On April 6, 1999, he received a copy of the Resolution of the NLRC denying his motion for reconsideration. Accordingly, he had only until May 30, 1999, within which to file his petition. But he filed it only on June 7, 1999. Hence, it is late by eight (8) days."[7] (emphasis supplied)

Be that as it may, Rule 65, Section 4, as amended, was further amended effective September 1, 2000 to read as follows:

> "Sec. 4. When and where petition filed.-- The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial was timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.
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> The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.
>
> No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days." (emphasis supplied)

Although the above amendment took effect on September 1, 2000, this Court has applied it retroactively. In Systems Factors Corporation and Modesto Dean v. NLRC, et al.,[8] petitioner filed a petition for certiorari in the

Court of Appeals on January 24, 2000. The appellate court dismissed it on February 15, 2000 for having been filed ten days beyond the prescriptive period. The counting of the sixty-day reglementary period was reckoned from the date petitioner received the impugned decision, interrupted by the filing of a motion for reconsideration, then resumed from the date of receipt of the resolution denying the motion for reconsideration. The petitioner therein sought recourse in this Court. While the case was pending in this Court, Section 4, Rule 65 of the Rules was amended effective September 1, 2000. Applying the amendment to the case, we ruled that the petition in the Court of Appeals was deemed timely filed, viz:

> "We hold that the amendment under A.M. No. 00-2-03-SC wherein the sixty-day period to file a petition for certiorari is reckoned from receipt of the resolution denying the motion for reconsideration should be deemed applicable. Remedial statutes or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retroactive law, or the general rule against retroactive operation of statutes (Castro vs. Sagales, 94 Phil. 208). Statutes regulating (sic) to the procedure of the courts will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense and to that extent. The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected (Gregorio vs. Court of Appeals, 26 SCRA 229; Tinio vs. Mina, 26 SCRA 512). The reason is that as a general rule, no vested right may attach to nor arise from procedural laws. (Billones vs. CIR, 14 SCRA 674)"[9]

In the case at bar, petitioner Serrano received the resolution of the NLRC denying his motion for reconsideration on April 6, 1999. Thenceforth, he had 60 days or until June 7, 1999 to file a petition for certiorari with the Court of Appeals. But as June 7 fell on a Saturday, he had until June 9, the next working day, to file his petition. Rule 22, Section 1 provides in relevant part, viz:

> ". . . If the last day of the period, as thus computed, falls on a Saturday, a Sunday or a legal holiday in the place where the court sits, the time shall not run until the next working day."

Petitioner thus timely filed his petition with the Court of Appeals on June 9, 1999.

We now proceed to decide the case on the merits. The issue is whether or not the claim of the petitioner has prescribed. The applicable law is Article 291 of the Labor Code, viz:

> "Article 291. Money claims. All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three years from the time the cause of action accrued, otherwise they shall be forever barred." (emphasis supplied)

The pivotal question is when petitioner's cause of action accrued for this will determine the reckoning date of the three-year prescriptive period.

Petitioner contends that his cause of action accrued only in 1993 when respondent A.P. Moller wrote to him that its accounting records showed it had no outstanding money orders and that his case was considered outdated. Thus, the three (3) year prescriptive period should be counted from 1993 and not 1978 and since his complaint was filed in 1994, he claims that it has not prescribed.

We agree. Petitioner's cause of action accrued in November 1993 upon respondent Maersk's definite denial of his money claims following this Court's ruling in the similar case of Baliwag Transit , Inc. v. Ople.[10] In that case, a bus of the petitioner Baliwag Transit bus company driven by the respondent driver figured in an accident with a train of the Philippine National Railways (PNR) on August 10, 1974. This resulted to the death of eighteen (18) passengers and caused serious injury to fifty-six (56) other passengers. The bus itself also sustained extensive damage. The bus company instituted a complaint against the PNR. The latter was held liable for its negligence in

the decision rendered on April 6, 1977. The respondent driver was absolved of any contributory negligence. However, the driver was also prosecuted for multiple homicide and multiple serious physical injuries, but the case was provisionally dismissed in March 1980 for failure of the prosecution witness to appear at the scheduled hearing. Soon after the PNR decision was rendered, the driver renewed his license and sought reinstatement with Baliwag Transit. He was advised to wait until his criminal case was terminated. He repeatedly requested for reinstatement thereafter, but to no avail, even after termination of the criminal case against him. Finally, on May 2, 1980, he demanded reinstatement in a letter signed by his counsel. On May 10, 1980, petitioner Baliwag Transit replied that he could not be reinstated as his driver's license had already been revoked and his driving was "extremely dangerous to the riding public." This prompted respondent driver to file on July 29, 1980 a formal complaint with the Ministry of Labor and Employment for illegal dismissal against Baliwag Transit praying for reinstatement with back wages and emergency cost of living allowance. The complaint was dismissed by the regional director on the ground of prescription under Art. 291 of the Labor Code. This was reversed by then Labor and Employment Minister Ople. On appeal to this Court, we ruled that the action had not prescribed, viz:

> ". . . (T)he antecedent question that has to be settled is the date when the cause of action accrued and from which the period shall commence to run. The parties disagree on this date. The contention of the petitioner is that it should be August 10, 1974, when the collission occurred. The private respondent insists it is May 10, 1980, when his demand for reinstatement was rejected by the petitioner.
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> It is settled jurisprudence that a cause of action has three elements, to wit, (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff.
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> The problem in the case at bar is with the third element as the first two are deemed established.
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> We hold that the private respondent's right of action could not have accrued from the mere fact of the occurrence of the mishap on August 10, 1974, as he was not considered automatically dismissed on that date. At best, he was deemed suspended from his work, and not even by positive act of the petitioner but as a result of the suspension of his driver's license because of the accident. There was no apparent disagreement then between (respondent driver) Hughes and his employer. As the private respondent was the petitioner's principal witness in its complaint for damages against the Philippine National Railways, we may assume that Baliwag Transit and Hughes were on the best of terms when the case was being tried. Hence, there existed no justification at that time for the private respondent to demand reinstatement and no opportunity warrant (sic) either for the petitioner to reject that demand.
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> We agree with private respondent that May 10, 1980, is the date when his cause of action accrued, for it was then that the petitioner denied his demand for reinstatement and so committed that act or omission "constituting a breach of the obligation of the defendant to the plaintiff." The earlier requests by him having been warded off with indefinite promises, and the private respondent not yet having decided to assert his right, his cause of action could not be said to have then already accrued. The issues had not yet been joined, so to speak. This happened only when the private respondent finally demanded reinstatement on May 2, 1980, and his demand was categorically rejected by the petitioner on May 10, 1980."[11] (emphasis supplied)

The facts in the case at bar are similar to the Baliwag case. Petitioner repeatedly demanded payment from respondent Maersk but similar to the actuations of Baliwag Transit in the above cited case, respondent Maersk warded off these demands by saying that it would look into the matter until years passed by. In October 1993, Serrano finally demanded in writing payment of the unsent money orders. Then and only then was the claim categorically denied by respondent A.P. Moller in its letter dated November 22, 1993. Following the Baliwag Transit ruling, petitioner's cause of action accrued only upon respondent A.P. Moller's definite denial of his claim

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in November 1993. Having filed his action five (5) months thereafter or in April 1994, we hold that it was filed within the three-year (3) prescriptive period provided in Article 291 of the Labor Code.

WHEREFORE, the petition is GRANTED and the impugned resolutions of the Court of Appeals dated June 18, 1999 and July 15, 1999 are REVERSED and SET ASIDE. The decision of the Labor Arbiter ordering respondent Maersk and/or A.P. Moller to pay petitioner his untransmitted money order payments in the amount of HK$4,600.00 and £1,050,00 Sterling Pounds or their peso equivalent at the time of actual payment is reinstated.[12] No costs.

SO ORDERED.
Davide, Jr., C.J., (Chairman), Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Rollo, p. 16; Original Records, pp. 220-221; Affidavit-Complaint, p. 1.

[2] Rollo, pp. 5, 10.

[3] Id., p. 5.

[4] Id., p. 11.

[5] Id., p. 45.

[6] Id., pp. 23-24.

[7] Rollo, p. 41.

[8] G.R. No. 143789, November 27, 2000.

[9] Systems Factors Corporation and Modesto Dean v. NLRC, et al., G.R. No. 143789, November 27, 2000, p. 5. See also Unity Fishing Development Corp. and/or Antonio Dee v. Court of Appeals, National Labor Relations Commission and Dominador Laguin, G.R. No. 145415, February 2, 2001; Presidential Commission on Good Government [PCGG], represented by Orlando L. Salvador v. Hon. Aniano Desierto, et al., G.R. No. 140358, December 8, 2000.

[10] 171 SCRA 250 (1989).

[11] Baliwag Transit, Inc. v. Ople, 171 SCRA 250 (1989), pp. 258-259, citing ACCFA v. Alpha Insurance and Surety Co., Inc., 24 SCRA 151; Summit Guaranty and Insurance Co., Inc. v. De Guzman, 151 SCRA 389; Tormon v. Cutanda, 9 SCRA 698.

[12] Philippine Transmarine Carriers, Inc. v. NLRC, et al., G.R. No. 123891, February 28, 2001.

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