

ERNESTO KRAMER, JR. AND MARTA KRAMER, PETITIONERS, VS. HON. COURT OF APPEALS AND TRANS-ASIA SHIPPING LINES, INC., RESPONDENTS.

G.R. No. 83524. October 13, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The principal issue in this Petition for Review is whether or not a Complaint for damages instituted by the petitioners against the private respondent arising from a marine collision is barred by the statute of limitations.

The record of the case discloses that in the early morning of April 8, 1976, the F/B Marjolea, a fishing boat owned by the petitioners Ernesto Kramer, Jr. and Marta Kramer, was navigating its way from Marinduque to Manila. Somewhere near Maricabon Island and Cape Santiago, the boat figured in a collision with an inter-island vessel, the M/V Asia Philippines owned by the private respondent Trans-Asia Shipping Lines, Inc. As a consequence of the collision, the F/B Marjolea sank, taking with it its fish catch.

After the mishap, the captains of both vessels filed their respective marine protests with the Board of Marine Inquiry of the Philippine Coast Guard. The Board conducted an investigation for the purpose of determining the proximate cause of the maritime collision.

On October 19, 1981, the Board concluded that the loss of the F/B Marjolea and its fish catch was attributable to the negligence of the employees of the private respondent who were on board the M/V Asia Philippines during the collision. The findings made by the Board served as the basis of a subsequent Decision of the Commandant of the Philippine Coast Guard dated April 29, 1982 wherein the second mate of the M/V Asia Philippines was suspended from pursuing his profession as a marine officer.[1]

On May 30, 1985, the petitioners instituted a Complaint for damages against the private respondent before Branch 117 of the Regional Trial Court in Pasay City.[2] The suit was docketed as Civil Case No. 2907-P.

The private respondent filed a Motion seeking the dismissal of the Complaint on the ground of prescription. He argued that under Article 1146 of the Civil Code,[3] the prescriptive period for instituting a Complaint for damages arising from a quasi-delict like a maritime collision is four years. He maintained that the petitioners should have filed their Complaint within four years from the date when their cause of action accrued, i. e., from April 8, 1976 when the maritime collision took place, and that accordingly, the Complaint filed on May 30, 1985 was instituted beyond the four-year prescriptive period.

For their part, the petitioners contended that maritime collisions have peculiarities and characteristics which only persons with special skill, training and experience like the members of the Board of Marine Inquiry can properly analyze and resolve. The petitioners argued that the running of the prescriptive period was tolled by the filing of the marine protest and that their cause of action accrued only on April 29, 1982, the date when the Decision ascertaining the negligence of the crew of the M/V Asia Philippines had become final, and that the four-year

prescriptive period under Article 1146 of the Civil Code should be computed from the said date. The petitioners concluded that inasmuch as the Complaint was filed on May 30, 1985, the same was seasonably filed.

In an Order dated September 25, 1986,[4] the trial court denied the Motion filed by the private respondent. The trial court observed that in ascertaining negligence relating to a maritime collision, there is a need to rely on highly technical aspects attendant to such collision, and that the Board of Marine Inquiry was constituted pursuant to the Philippine Merchant Marine Rules and Regulations, which took effect on January 1, 1975 by virtue of Letter of Instructions No. 208 issued on August 12, 1974 by then President Ferdinand E. Marcos, precisely to answer the need. The trial court went on to say that the four-year prescriptive period provided in Article 1146 of the Civil Code should begin to run only from April 29, 1982, the date when the negligence of the crew of the M/V Asia Philippines had been finally ascertained. The pertinent portions of the Order of the trial court are as follows --

"Considering that the action concerns an incident involving a collision at sea of two vehicles and to determine negligence for that incident there is an absolute need to rely on highly technical aspects attendant to such collisions. It is obviously to answer such a need that the Marine Board of Inquiry (sic) was constituted pursuant to the Philippine Merchant Marine Rules and Regulations which became effective January 1, 1975 under Letter of Instruction(s) No. 208 dated August 12, 1974. The relevant section of that law (Art. XVI /b/ provided as follow(s):

'1. Board of Marine Inquiry (BMI). -- Shall have the jurisdiction to investigate marine accidents or casualties relative to the liability of shipowners and officers, exclusive jurisdiction to investigate cases/complaints against the marine officers; and to review all proceedings or investigation conducted by the Special Boards of Marine Inquiry.

'2. Special Board of Marine Inquiry. -- Shall have original jurisdiction to investigate marine casualties and disasters which occur or are committed within the limits of the Coast Guard District concerned or those referred by the Commandant.'

The Court finds reason in the argument of the plaintiff that marine incidents have those 'peculiarities which only persons of special skill, training and exposure can rightfully decipher and resolve' on the matter of the negligence and liabilities of parties involved and inasmuch as the report of the Board of Inquiry (sic) admittedly came out only on April 29, 1982, the prescriptive period provided xxx under Art. 1146 of the Civil Code should begin to run only from that date. The complaint was filed with this Court on May 10, 1985, hence the statute of limitations can not constitute a bar to the filing of this case." [5]

The private respondent elevated the case to the Court of Appeals by way of a special civil action for certiorari and prohibition, alleging therein that the trial court committed a grave abuse of discretion in refusing to dismiss the Complaint filed by the petitioners. The case was assigned to the Second Division of the appellate court and was docketed as Case No. CA-G.R. SP No. 12032.[6]

In a Decision dated November 27, 1987,[7] and clarified in a Resolution dated January 12, 1988,[8] the Court of Appeals granted the Petition filed by the private respondent and ordered the trial court to dismiss the Complaint. The pertinent portions of the Decision of the appellate court are as follows --

"It is clear that the cause of action of private respondent (the herein petitioners Ernesto Kramer, Jr. and Marta Kramer) accrued from the occurrence of the mishap because that is the precise time when damages were inflicted upon and sustained by the aggrieved party and from which relief from the court is presently sought. Private respondents should have immediately instituted a complaint for damages based on a quasi-delict within four years from the said marine incident because its cause of action had already definitely ripened at the onset of the collision. For this reason, he (sic) could cite the negligence on the part of the personnel of the petitioner

to exercise due care and lack of (sic) diligence to prevent the collision that resulted in the total loss of their xxx boat.

"We can only extend scant consideration to respondent judge's reasoning that in view of the nature of the marine collision that allegedly involves highly technical aspects, the running of the prescriptive period should only commence from the finality of the investigation conducted by the Marine Board of Inquiry (sic) and the decision of the Commandant, Philippine Coast Guard, who has original jurisdiction over the mishap. For one, while it is true that the findings and recommendation of the Board and the decision of the Commandant may be helpful to the court in ascertaining which of the parties are at fault, still the former (court) is not bound by said findings and decision. Indeed, the same findings and decision could be entirely or partially admitted, modified, amended, or disregarded by the court according to its lights and judicial discretion. For another, if the accrual of a cause of action will be made to depend on the action to be taken by certain government agencies, then necessarily, the tolling of the prescriptive period would hinge upon the discretion of such agencies. Said alternative it is easy to foresee would be fraught with hazards. Their investigations might be delayed and lag, and then witnesses in the meantime might not be available or disappear, or certain documents may no longer be available or might be mislaid. xxx." [9]

The petitioners filed a Motion for the reconsideration of the said Decision but the same was denied by the Court of Appeals in a Resolution dated May 27, 1988. [10]

Hence, the instant Petition wherein the arguments raised by the petitioner before the trial court are reiterated. [11] In addition thereto, the petitioner contends that the Decision of the Court of Appeals runs against the pronouncement of this Court in *Vasquez v. Court of Appeals*. [12]

The private respondent filed its Comment on the Petition seeking therein the dismissal of the same. [13] It is also contended by the private respondent that the ruling of the Court in *Vasquez* is not applicable to the case at bar because the said case involves a maritime collision attributable to a fortuitous event. In a subsequent pleading, the private respondent argues that the Philippine Merchant Marine Rules and Regulations cannot have the effect of repealing the provisions of the Civil Code on prescription of actions. [14]

On September 19, 1988, the Court resolved to give due course to the petition. [15] After the parties filed their respective memoranda, the case was deemed submitted for decision.

The petition is devoid of merit. Under Article 1146 of the Civil Code, an action based upon a quasi-delict must be instituted within four (4) years. The prescriptive period begins from the day the quasi-delict is committed. In *Paulan vs. Sarabia*, [16] this Court ruled that in an action for damages arising from the collision of two (2) trucks, the action being based on a quasi-delict, the four (4) year prescriptive period must be counted from the day of the collision.

In *Español vs. Chairman, Philippine Veterans Administration*, [17] this Court held as follows -

"The right of action accrues when there exists a cause of action, which consists of 3 elements, namely: a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; b) an obligation on the part of defendant to respect such right; and c) an act or omission on the part of such defendant violative of the right of the plaintiff xxx. It is only when the last element occurs or takes place that it can be said in law that a cause of action has arisen xxx."

From the foregoing ruling, it is clear that the prescriptive period must be counted when the last element occurs or takes place, that is, the time of the commission of an act or omission violative of the right of the plaintiff, which is the time when the cause of action arises.

It is therefore clear that in this action for damages arising from the collision of two (2) vessels the four (4) year

prescriptive period must be counted from the day of the collision. The aggrieved party need not wait for a determination by an administrative body like a Board of Marine Inquiry, that the collision was caused by the fault or negligence of the other party before he can file an action for damages. The ruling in Vasquez does not apply in this case. Immediately after the collision the aggrieved party can seek relief from the courts by alleging such negligence or fault of the owners, agents or personnel of the other vessel.

Thus, the respondent court correctly found that the action of petitioner has prescribed. The collision occurred on April 8, 1976. The complaint for damages was filed in court only on May 30, 1985, way beyond the four (4) year prescriptive period.

WHEREFORE, the petition is dismissed. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 26 to 32, Rollo.

[2] Pages 33 to 36, Rollo.

[3] Article 1146 of the Civil Code provides: "The following actions must be instituted within four years: xxx; (2) Upon a quasi-delict."

[4] Pages 42 and 43, Rollo. The Order was written by then Judge, now Court of Appeals Associate Justice Cezar D. Francisco.

[5] Page 43, Rollo.

[6] The Second Division of the Court of Appeals was then composed of Justices Oscar R. Victoriano, Manuel T. Reyes and Hector C. Fule.

[7] Pages 16 to 21, Rollo. Justice Fule wrote the Decision of the Court of Appeals.

[8] Page 23, Rollo.

[9] Pages 19 and 20, Rollo.

[10] Page 25, Rollo.

[11] Pages 2 to 14, Rollo.

[12] 138 SCRA 553 (1985).

[13] Pages 46 to 48, Rollo.

[14] Page 70, Rollo.

[15] Page 49, Rollo.

[16] G.R. L-10542, July 31, 1952.

[17] 137 SCRA 314 (1985).

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